

# CRS Report for Congress

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## **Transportation, the Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, the Executive Office of the President, and Independent Agencies: FY2006 Appropriations**

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David Randall Peterman and John Frittelli  
Coordinators  
Resources, Science, and Industry Division

Appropriations are one part of a complex federal budget process that includes budget resolutions, appropriations (regular, supplemental, and continuing) bills, rescissions, and budget reconciliation bills. The process begins with the President's budget request and is bound by the rules of the House and Senate, the Congressional Budget and Impoundment Control Act of 1974 (as amended), the Budget Enforcement Act of 1990, and current program authorizations.

This report is a guide to one of the regular appropriations bills that Congress considers each year. It is designed to supplement the information provided by the Subcommittee on Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia of the House Committee on Appropriations, and by the Subcommittee on Transportation, Treasury, the Judiciary, Housing and Urban Development, and Related Agencies of the Senate Committee on Appropriations. It summarizes the current legislative status of the bill, its scope, major issues, funding levels, and related legislative activity. The report lists the key CRS staff relevant to the issues covered and related CRS products.

This report is updated as soon as possible after major legislative developments, especially following legislative action in the committees and on the floor of the House and Senate.

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# Transportation, the Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, the Executive Office of the President, and Independent Agencies: FY2006 Appropriations

## Summary

At the beginning of the 109<sup>th</sup> Congress, both the House and Senate Committees on Appropriations reorganized their subcommittee structure, affecting the coverage of the FY2006 appropriations bills. As a result, the appropriations subcommittees that previously oversaw the Departments of Transportation and the Treasury, the Executive Office of the President, and Independent Agencies now also oversee the Department of Housing and Urban Development, the Judiciary, and (in the case of the House, but not the Senate) the District of Columbia.

The Bush Administration requested \$126.1 billion for these agencies for FY2006, a slight decrease from the comparable figure of \$127.7 billion for FY2005 (after a 0.83% across-the-board rescission that was included in the FY2005 Omnibus Appropriations Act, P.L. 108-447).

The House-passed version of H.R. 3058, the FY2006 Departments of Transportation, Treasury, and Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies appropriations bill, provided \$140.0 billion for FY2006, \$6.5 billion (5%) over comparable FY2005 enacted levels and \$9.7 billion (7%) over the Administration's request. The House did not support most of the Administration's requested changes, while providing significant increases for aviation, highway and transit programs, Amtrak, rental subsidies for the poor, and housing for Native Americans.

The Senate-passed version of H.R. 3058 provided \$142.0 billion. The Senate Committee also did not support most of the Administration's requested changes, while also providing significant increases for several programs. The bill included provisions that would restrict outsourcing of federal work and ease restrictions on U.S. agricultural exports to Cuba.

The conference version of H.R. 3058 was passed by Congress on November 18, 2005; the President signed the bill into law on November 30, 2005 (P.L. 109-115). The bill provided \$137.6 billion in net budgetary resources, less than either the House or Senate versions, but \$4.1 billion (3%) more than the FY2005 enacted level and \$7.3 billion (6%) more than the Administration requested. Conferees did not include provisions passed by both chambers easing restrictions on agricultural exports to Cuba. Conferees added language prohibiting the use of funds in this bill for projects using eminent domain to acquire land for private development. In a subsequent bill, Congress enacted a one percent across-the-board rescission of non-emergency FY2006 discretionary funding, and provided almost \$15 billion in supplemental funding to the Departments of Transportation and Housing and Urban Development, the Judiciary, and the General Services Administration to respond to the consequences of Hurricanes Katrina, Rita, and Wilma. This report will not be updated.

## Key Policy Staff

Area of Expertise	Name	CRS Div.	Telephone #
<b>Title I: Department of Transportation</b>			
Aviation Safety, Federal Aviation Administration	Bart Elias	RSI	7-7771
Airport Improvement Program, Transportation Infrastructure Policy, Transportation Trust Funds	John Fischer	RSI	7-7766
Federal Railroad Administration; Maritime Administration; Surface Transportation Board	John Frittelli	RSI	7-7033
Airport Improvement Program, Federal Highway Administration	Bob Kirk	RSI	7-7769
Amtrak, Federal Motor Carrier Safety Administration, Federal Transit Administration, High-Speed Rail, National Highway Traffic Safety Administration, Surface Transportation Safety	Randy Peterman	RSI	7-3267
<b>Title II: Department of the Treasury</b>			
Treasury, Internal Revenue Service	Gary Guenther	G&F	7-7742
Financial Center (FINCEN)	William Jackson	G&F	7-7834
<b>Title III: Department of Housing and Urban Development</b>			
Low-income housing programs and issues and general HUD: Section 8, Public Housing, HOPE VI, HOME	Maggie McCarty	DSP	7-2163
Community Development programs and issues: Community Development Block Grants (CDBG), EZ/EC, Brownfields redevelopment	Eugene Boyd	DSP	7-8689
Housing programs and issues for special populations: Elderly (202), Disabled (811), Homeless, AIDS housing	Libby Perl	DSP	7-7806
Homeownership and other housing issues: FHA, Rural, Indian housing, Fair Housing	Bruce Foote	G&F	7-7805
<b>Title IV: The Judiciary</b>			
Judiciary	Steve Rutkus	G&F	7-7162
Judiciary	Lorraine Tong	G&F	7-5846
<b>Division B: District of Columbia</b>			
District of Columbia	Eugene Boyd	G&F	7-8689
<b>Title V: Executive Office of the President and Funds Appropriated to the President</b>			
Executive Office of the President	Barbara Schwemle	G&F	7-8655

Area of Expertise	Name	CRS Div.	Telephone #
<b>Title VI: Independent Agencies</b>			
Generally	Virginia McMurtry	G&F	7-8678
Architectural and Transportation Barriers Compliance Board	Nancy Jones	ALD	7-6976
Consumer Product Safety Commission	Bruce Mulock	G&F	7-7775
Election Assistance Commission	Kevin Coleman	G&F	7-7878
Federal Deposit Insurance Corporation: OIG	Pauline Smale	G&F	7-7832
Federal Election Commission	Joe Cantor	G&F	7-7876
Federal Labor Relations Authority	Gerald Mayer	DSP	7-7815
Federal Maritime Commission	John Frittelli	RSI	7-7033
General Services Administration	Stephanie Smith	G&F	7-8674
National Transportation Safety Board	Bart Elias	RSI	7-7771
Merit Systems Protection Board	Barbara Schwemle	G&F	7-8655
National Archives; E-Government Fund in GSA	Harold Relyea	G&F	7-8679
Office of Personnel Management; Office of Special Counsel	Barbara Schwemle	G&F	7-8655
National Credit Union Administration	Pauline Smale	G&F	7-7832
Neighborhood Reinvestment Corporation	Eugene Boyd	G&F	7-8689
Selective Service Commission	Robert Goldich David Burelli	FDT	7-7633 7-8033
United States Interagency Council on Homelessness	Maggie McCarty	DSP	7-2163
US Postal Service	Nye Stevens	G&F	7-0208
<b>Title VIII: General Provisions, Government-Wide</b>			
Government-wide General Provisions	Barbara Schwemle	G&F	7-8655
Competitive Sourcing	L. Elaine Halchin	G&F	7-0646
Cuba	Mark Sullivan	FDT	7-7689

ALD = American Law Division  
 DSP = Domestic Social Policy Division  
 FDT = Foreign Affairs, Defense, and Trade Division  
 G&F = Government & Finance Division  
 RSI = Resources, Science, and Industry Division

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# Transportation, the Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, the Executive Office of the President, and Independent Agencies: FY2006 Appropriations

## Most Recent Developments

On December 30, 2005, President Bush signed the FY2006 Department of Defense appropriations bill (P.L. 109-148), which included a one percent across-the-board rescission of non-emergency federal discretionary funding for FY2006. This bill also provided supplemental funding to several federal agencies to respond to the consequences of Hurricanes Katrina, Rita, and Wilma, including \$2.8 billion for the Department of Transportation, \$11.9 billion for the Department of Housing and Urban Development, \$38 million for the General Services Administration, and \$18 million for the Judiciary.<sup>1</sup>

On November 30, 2005, President Bush signed H.R. 3058 into law (P.L. 109-115). The bill was passed by Congress on November 18.<sup>2</sup> The bill provided \$137.6 billion in net budgetary resources, less than either the House or Senate versions, but \$4.1 billion (3.0%) more than the FY2005 enacted level and \$7.3 billion (5.6%) more than the Administration requested.

On November 2, 2005, the House Committee on Appropriations published a revised suballocation of budget allocations for FY2006 (H.Rept. 109-264). Among the changes made by this report were a reduction in the suballocation (“302(b) allocation”) for the House Appropriations Committee Transportation-Treasury-HUD-The Judiciary-DC Subcommittee. The revised suballocation for discretionary budget authority was \$65.9 billion, \$1 billion less than the previous suballocation (and \$1 billion less than the discretionary funding level in the House-passed version of H.R. 3058, the Departments of Transportation, Treasury, and Housing and Urban

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<sup>1</sup> The FY2006 numbers in this report do not reflect either the across-the-board rescission or the supplemental funding provided in P.L. 109-148.

<sup>2</sup> The Senate, by unanimous consent, agreed to passage of the bill at such time as the Senate received the paperwork from the House. *Congressional Record*, November 18, 2005, S13418.



Development, The Judiciary, District of Columbia, and Independent Agencies Appropriations bill).<sup>3</sup>

On October 20, 2005, the Senate passed H.R. 3058, the FY2006 Departments of Transportation, Treasury, and Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies Appropriations bill. The Senate added the text of S. 1446, the Senate's FY2006 appropriations bill for the District of Columbia, to the bill, and approved an overall funding level of \$141.6 billion, 6% more than provided in FY2005 and 9% more than the Administration request. The Senate bill includes provisions that would restrict outsourcing of federal work and ease restrictions on agricultural exports to Cuba.

On June 30, 2005, the House passed H.R. 3058, the FY2006 Departments of Transportation, Treasury, and Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies Appropriations bill. The House approved an overall funding level of \$139.1 billion, a 6% increase over comparable FY2005 funding and a 7% increase over the Administration's request. The House approved the Appropriations Committee's recommendations to provide the same pay raise (3.1%) to federal civilian workers as that requested for uniformed military personnel for calendar year 2006, and to ease restrictions on U.S. agricultural exports to Cuba. The House approved several amendments to the bill, including ones increasing funding for Amtrak and the Department of Housing and Urban Development, and restricting outsourcing of federal work.

## Overview

The President's FY2006 request for the programs covered by this appropriations bill was \$126.1 billion. This was \$1.6 billion (1%) below the FY2005 enacted level of \$127.7 billion (after a 0.83% rescission). The FY2006 request included cuts from the FY2005 funding level for the Department of Housing and Urban Development (\$2.8 billion, a 9% reduction) and the Department of Transportation (\$1.4 billion, a 2% reduction). The FY2006 request for the Executive Office of the President was \$300 million less than the FY2005 figure; that reduction was largely due to the proposed transfer of the High Intensity Drug Trafficking Areas Program (\$227 million in FY2005) from the Executive Office of the President to the Department of Justice, and to an FY2005 supplemental appropriation of \$70 million to the Executive Office of the President (P.L. 108-324) for unanticipated needs (for hurricane disaster relief assistance through the American Red Cross).

The President's FY2006 budget request proposals included:

- zeroing out of funding for Amtrak, the provider of intercity passenger rail service, which received \$1.2 billion in FY2005;
- reducing funding for the Federal Aviation Administration's (FAA) Airport Improvement Program (AIP) to \$3.0 billion, \$600 million

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<sup>3</sup> Much of the funding in the annual Transportation et al. appropriations bill is not in the form of discretionary budget authority, thus the total funding level is much higher than the discretionary funding level.

below its ‘guaranteed’ authorization level, which would make the entire appropriations bill subject to a point of order. The proposed level is also below the AIP formula threshold of \$3.2 billion, which could result in a halving of most AIP formula distributions;

- eliminating the community and economic development programs under the Department of Housing and Urban Development (HUD), along with those of several other agencies, and replace them with a new program administered by the Department of Commerce. The proposed funding for the new program is \$1.9 billion (34%) less than the aggregate FY2005 funding for the programs proposed for elimination (reduced from \$5.6 billion for FY2005 to \$3.7 billion for FY2006);
- reducing the funding for housing for disabled persons under HUD by \$118 million (50%), from \$238 million for FY2005 to \$120 million for FY2006;
- eliminating the annual \$29 million payment to the United States Postal Service for revenue forgone, as well as the absence of any funding requested for Postal Service security measures.

Neither the House nor the Senate supported most of these proposed changes. The House-passed version of H.R. 3058, the FY2006 Departments of Transportation, Treasury, and Housing and Urban Development, The Judiciary, District of Columbia, and Independent Agencies Appropriations bill, provided \$140.0 billion, \$6.5 billion (5%) over comparable FY2005 enacted levels and \$9.7 billion (7%) over the Administration’s request. The bill generally reflected the House Committee on Appropriations recommendations, including the overall funding level; the House did approve amendments increasing Amtrak’s FY2006 funding from \$550 million to almost \$1.2 billion, delete the House Committee’s provision barring federal assistance for Amtrak’s routes whose subsidy per passenger exceeds \$30, and approve amendments increasing funding for several programs within the Department of Housing and Urban Development. The White House objected to several provisions in the bill, and issued a veto threat against a provision easing a restriction on agricultural exports to Cuba.<sup>4</sup>

The Senate-passed version of H.R. 3058, to which was added S. 1446, the FY2006 appropriations bill for the District of Columbia, provided \$142.0 billion. The bill generally reflected the Senate Committee on Appropriations recommendations, including the overall funding level; among the amendments approved by the Senate were amendments deleting Senate Appropriations Committee provisions which restricted Amtrak service and allowed Amtrak to charge commuter authorities for track access, and an amendment limiting the use of eminent domain powers by public authorities for economic development projects that result in primarily private gain. The White House objected to several provisions in the bill, and issued veto threats against some of them.<sup>5</sup>

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<sup>4</sup> White House, *Statement of Administration Policy: H.R. 3058*, June 29, 2005.

<sup>5</sup> White House, *Statement of Administration Policy: H.R. 3058*, October 19, 2005.

The conference version of H.R. 3058 was passed by the House on November 18, and by the Senate on November 21, 2005. It was signed into law on November 30, 2005 (P.L. 109-115). The conference bill provided \$137.6 billion in net budgetary resources. This was \$2.4 billion less than the House bill and \$4.4 billion less than the Senate bill, but \$4.1 billion (3.0%) more than the FY2005 enacted level and \$7.3 billion (5.6%) more than the Administration requested. The largest increases went to HUD (\$2.1 billion over FY2005 funding and \$4.8 billion more than requested) and DOT (\$1.0 billion over FY2005 funding and \$2.4 billion more than requested). Conferees included directives to Amtrak (the Administration had threatened to veto the bill if it provided funding for Amtrak in the absence of any reform measures) and language that limits outsourcing of federal jobs performed by more than ten people unless the savings would exceed the lesser of 10% of or \$10 million. Conferees did not include provisions passed by both chambers easing restrictions on agricultural exports to Cuba, which had elicited veto threats from the Administration. Conferees also did not include House language that would have prohibited the use of federal or D.C. funds to enforce certain gun laws in the District of Columbia. Conferees added language prohibiting the use of funds in this bill for projects using eminent domain to acquire land for projects that primarily benefit private entities. Conferees also added language that amended provisions in the recently-passed surface transportation reauthorization legislation (SAFETEA-LU, P.L. 109-59) regulating household moving companies. SAFETEA-LU allowed state consumer protection agencies to enforce federal laws regulating moving companies; conferees added language limiting the ability of state agencies to enforce these laws (the limitation would expire after one year).

**New Appropriations Subcommittee Structure.** In early 2005, the House and Senate Committees on Appropriations reorganized their subcommittee structures. The House Committee on Appropriations reduced its number of subcommittees to ten. This change combined the Transportation, Treasury, and Independent Agencies subcommittee with the District of Columbia subcommittee; to the resulting subcommittee, jurisdiction over appropriations for the Department of Housing and Urban Development and the Judiciary as well as several additional independent agencies was also added.

The Senate Committee on Appropriations reduced its number of subcommittees to twelve. The Senate also added jurisdiction over appropriations for the Department of Housing and Urban Development and the Judiciary to the Transportation, Treasury, and Independent Agencies subcommittee; the Senate retained a separate District of Columbia Appropriations subcommittee. As a result, the area of coverage of the House and Senate subcommittees with jurisdiction over this appropriations bill are almost, but not quite, identical; the major difference being that in the Senate the appropriations for the District of Columbia originate in a separate bill. The Senate Appropriations Committee reported out a Transportation et al. appropriations bill (H.R. 3058) and a District of Columbia appropriations bill (S. 1446); the Senate added the text of S. 1446 to H.R. 3058 during floor consideration. The conference agreement reflects that structure: the appropriations for all agencies other than the District of Columbia are in Division A of the bill, with the District of Columbia appropriations in Division B.

**Table 1** notes the status of the FY2006 Transportation et al. appropriations bill.

**Table 1. Status of FY2006 Departments of Transportation, the Treasury, and Housing and Urban Development, the Judiciary, the District of Columbia, the Executive Office of the President, and Independent Agencies Appropriations**

Subcommittee Markup		House Report	House Passage	Senate Report	Senate Passage	Conf. Report	Conference Report Approval		Public Law
House	Senate						House	Senate	
6/15/05	7/19/05	H.Rept. 109-153 6/21/05	6/30/05 405-18	S.Rept. 109-109 7/21/05	10/20/05 93-1	H.Rept. 109-307	11/18 392-31	11/21 UC	11/30/05 P.L. 109-115

UC: unanimous consent.

**Table 2** lists the total funding provided for each of the titles in the bill (the last two titles cover general provisions affecting this bill and general provisions affecting the entire federal government) for FY2005 and the amount requested for that title for FY2006.

**Table 2. Transportation/Treasury et al. Appropriations, by Title, FY2005-FY2006**  
(millions of dollars)

Title	FY2005 Enacted*	FY2006 Request	FY2006 House Passed	FY2006 Senate Passed	FY2006 Enacted **
Title I: Department of Transportation	\$59,723	\$58,297	\$63,469	\$64,244	\$60,677
Title II: Department of the Treasury	11,213	11,649	11,529	11,698	11,689
Title III: Housing and Urban Development	31,915	29,147	33,671	34,759	33,974
Title IV: The Judiciary	5,426	5,971	5,768	5,778	5,756
Title V: Executive Office of the President	834	525	779	731	736
Title VI: Independent Agencies	19,756	19,948	19,967	19,987	19,989
Title VII-VIII: General Provisions	(125)	—	—	—	—
Div. B: District of Columbia	556	573	603	593	603
<b>Total</b>	<b>133,497</b>	<b>130,310</b>	<b>139,986</b>	<b>141,990</b>	<b>137,623</b>

**Source:** Budget table in H.Rept. 109-307. “Total” is from “Net total budgetary resources” line in budget table and does not reflect scorekeeping adjustments, though the figures for titles do reflect scorekeeping. Totals may not add due to rounding and scorekeeping adjustments.

\* The FY2005 Omnibus appropriations bill contained an across-the-board rescission of 0.83%; that rescission is reflected in these figures.

\*\* The FY2006 figures in this report do not reflect either the one percent across-the-board rescission nor the supplemental funding provided in P.L. 109-148, the FY2006 Defense appropriations bill.

**Table 3** shows funding trends over the five-year period FY2001-FY2005, and the amounts requested for FY2006, for the titles in the bill. The agencies generally experienced funding increases during the period FY2001-FY2006.

**Table 3. Funding Trends for Transportation/Treasury et al.  
Appropriations, FY2001-FY2006**  
(billions of current dollars)

Department	FY2001 <sup>c</sup>	FY2002	FY2003 <sup>d</sup>	FY2004 <sup>e</sup>	FY2005 <sup>f</sup>	FY2006
Title I: Transportation <sup>a</sup>	\$51.9	\$57.4	\$55.7	\$58.4	\$59.6	\$60.7
Title II: Treasury <sup>b</sup>	9.9	10.5	10.8	11.1	11.2	11.7
Title III: Housing and Urban Development	28.5	30.2	31.0	31.2	31.9	34.0
Title IV: Judiciary	4.3	4.7	5.4	5.2	5.4	5.8
Title V: Executive Office of the President	0.7	0.8	0.8	0.8	0.8	0.7
Title VI: Independent Agencies	—	—	—	—	19.8	20.0
Division B: District of Columbia	0.5	0.4	0.5	0.5	0.6	0.6

**Source:** United States House of Representatives, Committee on Appropriations, Comparative Statement of Budget Authority tables from fiscal years 2001 through 2006.

- a. Figures for Department of Transportation appropriations for FY2001-FY2003 have been adjusted for comparison with FY2004 and later figures by subtracting the United States Coast Guard, the Transportation Security Administration, the National Transportation Safety Board, and the Architectural and Transportation Barriers Compliance Board, and by adding the Maritime Administration.
- b. Figures for Department of the Treasury appropriations for FY2001-FY2003 have been adjusted for comparison with FY2004 and later figures by subtracting the Bureau of Alcohol, Tobacco, and Firearms; the Customs Service; the United States Secret Service; and the Law Enforcement Training Center.
- c. FY2001 figures reflect 0.22% across-the-board rescission.
- d. FY2003 figures reflect 0.65% across-the-board rescission.
- e. FY2004 figures reflect 0.59% across-the-board rescission.
- f. FY2005 figures reflect 0.83% across-the-board rescission.

## Title I: Transportation Appropriations

**Table 4. Title I: Department of Transportation Appropriations,  
FY2005 to FY2006**

(in millions of dollars — totals may not add)

Department or Agency (Selected Accounts)	FY2005 Enacted <sup>a</sup>	FY2006 Request	FY2006 House Passed	FY2006 Senate Passed	FY2006 Enacted
Office of the Secretary of Transportation	\$238	\$209	\$198	\$223	\$239
<i>Essential Air Service<sup>b</sup></i>	52	—	54	60	60
Federal Aviation Administration (FAA)	13,549	12,710	14,631	13,610	13,815
<i>Operations (trust fund &amp; general fund)</i>	7,713	8,201	8,397	8,176	8,186
<i>Facilities &amp; Equipment (F&amp;E) (trust fund)</i>	2,525	2,448	3,053	2,448	2,540
<i>Grant-in-aid Airports (AIP) (trust fund)     (limit. on oblig.)</i>	3,517	3,010	3,630	3,520	3,570
<i>Research, Engineering &amp; Development     (trust fund)</i>	130	130	130	135	138
Federal Highway Administration (FHWA)	35,834	35,439	37,026	38,713	34,669
<i>(Limitation on Obligations)</i>	34,422	34,700	36,287	40,194	36,032
<i>(Exempt Obligations)</i>	739	739	739	739	739
<i>Additional funds (trust fund)</i>	735	—	—	—	—
<i>Additional funds (general fund)</i>	1,315	—	—	80	20
Federal Motor Carrier Safety Administration (FMCSA)	444	465	501	490	495
National Highway Traffic Safety Administration (NHTSA)	454	696	782	785	815
Federal Railroad Administration (FRA)	1,432	552	1,332	1,669	1,526
<i>Amtrak</i>	1,207	—	1,176	1,450	1,315
Federal Transit Administration (FTA)	7,646	7,781	8,482	8,209	8,590
<i>General Funds</i>	956	956	1,272	1,384	1,610
<i>Trust Funds</i>	6,691	6,825	7,210	6,825	6,980
St. Lawrence Seaway Development Corporation	16	16	16	16	16
Maritime Administration (MARAD)	305	294	291	323	301
Pipeline and Hazardous Materials Safety Administration	69	117	116	116	116
<i>Pipeline safety program</i>	69	73	73	73	73
<i>Emergency preparedness grants</i>	14	—	14	14	14
Research and Innovative Technology Administration	47	6	4	4	6
Office of Inspector General	59	62	62	62	62
Surface Transportation Board	20	23	25	23	25
<b>Total, Department of Transportation</b>	<b>59,723</b>	<b>58,297</b>	<b>63,469</b>	<b>64,244</b>	<b>60,677</b>

**Note:** Figures are from the budget authority table in H.Rept. 109-307. Because of differing treatment of offsets, the totals will not always match the Administration's totals. The figures within this table may differ slightly from those in the text due to supplemental appropriations, rescissions, and other funding actions. Columns may not add due to rounding or exclusion of smaller program line-items.

- a. These figures reflect the 0.83% across-the-board rescission included in P.L. 108-447.
- b. These amounts are in addition to the \$50 million annual authorization for the Essential Air Service program; thus, the total FY2005 funding would be \$102 million (\$50 million + \$52 million).

## Department of Transportation Budget and Key Policy Issues<sup>6</sup>

The President's budget proposed \$58.3 billion for the Department of Transportation (DOT). This was \$1.4 billion (2%) less than the \$59.7 billion enacted for FY2005. The major funding changes requested from FY2005 were in the requests for Amtrak (no funding requested, resulting in a \$1.2 billion (100%) reduction below FY2005) and in the Federal Aviation Administration's Airport Improvement Program (\$500 million (14%) below FY2005).

The House Committee on Appropriations recommended \$62.8 billion for DOT, \$4.4 billion (8%) above the Administration request and \$3.0 billion (5%) above FY2005 funding. The primary changes from the President's request were additional funding for the Federal Aviation Administration (\$1.2 billion), the Federal Highway Administration (\$1.6 billion), and Federal Transit Administration (\$700 million). In the case of the Federal Aviation Administration, the increase brought the Airport Improvement Program and Facilities and Equipment Program up to their FY2006 authorized funding levels. In the case of the highway and transit programs, the increase brought those administrations up to the funding levels authorized in the House's version of surface transportation authorization legislation, which is currently in conference. The Committee also recommended \$550 million in passenger rail funding, more than the Administration requested but less than the \$1.2 billion enacted in FY2005. The House supported the Committee's recommendations regarding transportation funding, except that the House voted to add another \$550 million for Amtrak (discussed below), which increased the DOT total to \$63.5 billion.

The Senate Committee on Appropriations recommended \$64.2 billion for DOT. Relative to the House-passed bill, the Senate Committee recommended increases for the Office of the Secretary, the federal-aid highway program, Amtrak, and the Maritime Administration, and recommended decreases for the Federal Aviation Administration and the Federal Transit Administration. The Senate supported the Committee's recommendations regarding transportation funding. The Senate did approve amendments eliminating Senate Appropriations Committee recommendations to restrict certain Amtrak services and allow Amtrak to charge commuter authorities for access to the Northeast Corridor.

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<sup>6</sup> For more information about Department of Transportation appropriations issues, see CRS Report RL32945, *FY2006 Appropriations for the Department of Transportation*, by David Randall Peterman.

The conference version of H.R. 3058 provided \$60.7 billion in net budgetary resources for the Department of Transportation, less than either the House or Senate versions, but \$1.0 billion (1.6%) more than the FY2005 enacted level and \$2.4 billion (4.1%) more than the Administration requested. The bill included \$1.3 billion for Amtrak, as well as numerous provisions governing Amtrak's operations.<sup>7</sup>

The Administration's budget for DOT identified three agency-specific goals influencing the budget request: improving aviation and surface transportation safety through increased funding for safety programs, improving transportation mobility through investments in additional infrastructure and through investments in technology to increase the effective capacity of the transportation systems, and improving passenger rail services between cities by restructuring federal intercity passenger rail policy and its provider, Amtrak.

**Amtrak.** Amtrak is a quasi-governmental corporation that operates and maintains rail infrastructure in the northeast and operates passenger rail service throughout the country. It operates at a deficit and requires federal support to continue operations. The President's budget did not request any funding for Amtrak for FY2006; Amtrak received \$1.2 billion in FY2005. The Administration requested \$360 million for the Surface Transportation Board to maintain commuter rail service that depends on Amtrak services in the event that Amtrak ceases operations during FY2006. The Administration's proposal received bipartisan criticism in both the House and the Senate. The Administration asserted that their reauthorization plan for Amtrak (109<sup>th</sup> Congress: H.R. 1713; 108<sup>th</sup> Congress: S. 1501/H.R. 3211) received little attention from the 108<sup>th</sup> Congress, so they requested no FY2006 money for Amtrak in order to spur congressional reauthorization action.<sup>8</sup> Their budget request asserted that "with no subsidies, Amtrak would quickly enter bankruptcy, which would likely lead to the elimination of inefficient operations and the reorganization of the railroad through bankruptcy proceedings."<sup>9</sup> Others were less certain of the outcome of an Amtrak bankruptcy proceeding.<sup>10</sup> The Administration also asserted that it would support increased funding for intercity passenger rail if significant reforms are enacted. Some Members of Congress questioned where that additional money would come from, given the competing demands from other transportation modes and from other agencies in the appropriations bill that funds DOT.

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<sup>7</sup> After enactment of this appropriations bill, Congress passed the FY2006 Defense appropriations bill, which includes a one-percent across-the-board rescission of non-emergency federal FY2006 discretionary funding, a \$1.1 billion rescission of unobligated highway funding, and a supplemental appropriation of \$2.8 billion to DOT to respond to the consequences of Hurricanes Katrina, Rita, and Wilma.

<sup>8</sup> Norman Mineta, Secretary, United States Department of Transportation, in transcript of the Senate Committee on Appropriations Subcommittee on Transportation, Treasury, the Judiciary, and Housing and Urban Development, Hearing on FY2006 Appropriations.

<sup>9</sup> Office of Management and Budget, *Budget for Fiscal Year 2006*, p. 243.

<sup>10</sup> Government Accountability Office, *Intercity Passenger Rail: Potential Financial Issues in the Event that Amtrak Undergoes Liquidation*, GAO-02-871, September 2002; CRS Report RL31550, *Railroad Reorganization Under the U.S. Bankruptcy Code: Implications of a Filing by Amtrak*, by Robin Jeweler.



The House Committee on the Budget encouraged the House to continue funding Amtrak<sup>11</sup>, and the House Committee on Transportation and Infrastructure marked up H.R. 1630, the Amtrak Reauthorization Act of 2005, on April 27, 2005; it would authorize \$2 billion annually for three years for Amtrak as it is currently structured. The bill has not been reported out of committee. Similar legislation was reported out by the Committee during the 108<sup>th</sup> Congress, but was not acted upon. The Senate Committee on Commerce, Science, and Transportation reported out S. 1516, the Passenger Rail Investment and Improvement Act of 2005 (S.Rept. 109-143) on October 18, 2005; it would authorize \$11 billion for Amtrak over six years and make changes to Amtrak's operations. The Senate attached language similar to S. 1516 to the budget reconciliation bill (S. 1932) on November 3, 2005; the amendment was approved by a vote of 93-6. The House passed an amended version of S. 1932, which did not include Amtrak authorization language, on November 18, 2005.

The House Committee on Appropriations recommended \$550 million for grants to Amtrak for FY2006. The Committee also recommended a financial performance measure for Amtrak's individual routes. Routes requiring a federal subsidy greater than \$30 per passenger would no longer be eligible for federal support.

In its consideration of H.R. 3058, the House approved two amendments concerning Amtrak. One amendment, agreed to by voice vote, increased Amtrak's FY2006 appropriation from \$550 million to \$1.176 billion. This is \$31 million less than the \$1.207 billion Amtrak is receiving in FY2005 (after the 0.83% across-the-board rescission), and significantly less than the \$1.4 billion the DOT IG testified Amtrak needed in FY2006. But it is \$276 million more than the House approved for Amtrak when it passed the FY2005 appropriations bill for transportation (108<sup>th</sup> Congress: H.R. 5025). The other amendment, approved by a vote of 269-152, deleted the Appropriation Committee's financial performance requirement for Amtrak's routes that would have eliminated federal aid for Amtrak's long-distance routes.

The Senate Committee on Appropriations recommended \$1.45 billion for Amtrak, \$243 million over the FY2005 enacted level. The Committee also recommended several provisions that would affect Amtrak's operations: a requirement that Amtrak adopt a managerial cost accounting system that can identify the average and marginal costs of services provided; a requirement that, beginning six months after adoption of the FY2006 appropriations act, no federal funding could be used to subsidize losses on food and beverage service or sleeper car service; and permission to impose fees on passenger tickets to help fund capital improvements, and on commuter rail systems using the Northeast Corridor for their share of direct maintenance costs on the Corridor.

In its consideration of H.R. 3058, the Senate supported the Amtrak funding level recommended by the Committee on Appropriations. The Senate approved two amendments deleting some of the Amtrak provisions recommended by the Committee: one amendment deleted the restriction on food and beverage service and sleeper car service; the other deleted the permission to impose fees on commuter rail

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<sup>11</sup> H.Rept. 109-17, on the FY2006 Budget Resolution (H.Con.Res. 95), 30.

authorities using the Northeast Corridor. The White House issued a veto threat against the Senate's Amtrak funding level in the absence of fundamental reforms to Amtrak.<sup>12</sup>

On November 9, the House voted (by voice vote) to instruct conferees to agree to the Senate level for Amtrak funding. The conference committee on H.R. 3058 provided \$1.3 billion for Amtrak: \$495 million for operating subsidy grants, \$780 million for capital and debt service grants, and \$40 million in efficiency incentive grants. These appropriations were accompanied by numerous provisions affecting Amtrak's receipt and use of these funds.

**Aviation.** The Federal Aviation Administration's (FAA) budget provides both capital and operating funding for the nation's air traffic control system, as well as providing federal grants to airports for airport planning, development, and expansion of the capacity of the nation's air traffic infrastructure. The President's budget requested \$12.7 billion for FY2006, \$839 million less than was enacted for FY2005. The President's request included \$25 million to hire 1,249 air traffic controllers in FY2006. This was expected to result in a net gain of around 600 controllers, since around 650 controllers are expected to leave through attrition.

The House Committee recommended \$14.6 billion for FY2006, \$1.1 billion over the level enacted for FY2005 and \$1.9 billion over the Administration request. The increases brought the FAA's capital programs up to their FY2006 authorized funding levels. The House supported this recommendation.

The Senate Committee on Appropriations recommended \$14.3 billion. The difference from the House-passed level was chiefly in lower funding for operations and grants-in-aid to airports. The Senate approved the recommended level.

The conference committee provided \$13.8 billion for aviation, after a rescission of \$1.0 billion of contract authority.

**Airport Improvement Program.** The President's budget proposed a cut to the Airport Improvement Program (AIP), from \$3.5 billion in FY2005 to \$3.0 billion for FY2006. The House provided \$3.6 billion, the FY2006 authorized level; the Senate provided \$3.5 billion. Conferees provided \$3.55 billion.

AIP funds are used to provide grants for airport planning and development, and for projects to increase airport capacity (such as building new runways) and other facility improvements. The Administration asserted that airports could compensate for the proposed reduction in AIP funding by increasing their use of passenger facility charges. The Administration estimated that airports could raise an additional \$350 to \$400 million annually by increasing passenger facility fees to the maximum allowed by law. Some Members of Congress questioned the wisdom of imposing fee increases on an airline industry struggling with the impact of high fuel costs.

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<sup>12</sup> White House, *Statement of Administration Policy: H.R. 3058*, October 19, 2005, 1.

**Essential Air Service.** The President's budget proposed a \$52 million (51%) reduction in funding for the Essential Air Service program, from \$102 million (FY2005) to \$50 million. The House Committee on Appropriations recommended \$104 million. The House-passed bill provided \$104 million, though the source of funding for \$54 million of that was struck from the bill on a point of order. The Senate-passed bill provided \$110 million. The conference bill provided \$110 million.

This program seeks to preserve air service to small airports in rural communities by subsidizing the cost of that service. Supporters of the Essential Air Service program contend that preserving airline service to rural communities was part of the deal Congress made in exchange for deregulating airline service in 1978, which was expected to reduce air service to rural areas. Some Members of Congress expressed concern that the proposed cut in funding for the Essential Air Service program could lead to a reduction in the transportation connections of rural communities. Previous budget requests from the current Administration, as well as budget requests from the previous Administration, have also proposed reducing funding to this program.

**Surface Transportation.** The President's budget requested \$35.3 billion for federal highway programs, slightly less than the \$35.7 billion provided for FY2005, and \$7.8 billion for federal transit programs, slightly more than the \$7.6 billion provided for FY2005. The House approved \$37.0 billion for federal highway programs and \$8.5 billion for federal transit programs. The Senate approved \$38.7 billion for federal highway programs and \$8.2 billion for federal transit programs. The conference bill provided \$36.7 billion<sup>13</sup> for federal highway programs and \$8.59 billion for federal transit programs.

The funding authorization for federal highway and transit programs was increased as a result of passage of H.R. 3, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)(P.L. 109-59). The Act provides an FY2006 guaranteed authorization of \$38.6 billion for the federal highway program and \$8.6 billion for the federal transit programs.

**Maritime Administration.** The Administration requested \$220 million for the Maritime Administration for FY2006, \$85 million (28%) below the \$305 million enacted for FY2005. The major change was in the National Defense Tanker Vessel Construction Program; the Administration did not request any new funding for this program, and requested that the \$74 million Congress appropriated in FY2005 for this program be rescinded. The Committee on Appropriations recommended \$291 million; the Committee did not provide any new funding for the Tanker Vessel Construction Program, but did not rescind the FY2005 funding. The House supported the Committee's recommendations. The Senate Committee on Appropriations recommended \$323 million, including \$25 million for the Tanker Vessel Construction Program; the Senate supported that recommendation. Conferees

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<sup>13</sup> \$36.0 billion in obligation limitations and \$739 million in exempt obligations. A \$2.0 billion rescission of contract authority brings the net total after score-keeping adjustments down to \$34.7 billion.

provided \$301 million, and neither rescinded previous funding for the Tanker Vessel Construction Program nor provided any new funding for the program.

This program is intended to decrease the Department of Defense's reliance on foreign-flag oil tankers by supporting the construction of up to five privately-owned product-tanker vessels in the United States. It would provide up to \$50 million per vessel for the construction, in U.S. shipyards, of commercial tank vessels that are capable of carrying militarily useful petroleum products and that would be available for the military's use in time of war.

## **Title II: Treasury Appropriations**

### **Department of the Treasury Budget and Key Policy Issues<sup>14</sup>**

This section examines the FY2006 budget for the Treasury Department and its operating bureaus. The FY2006 budget for its largest operating bureau, the Internal Revenue Service (IRS), is examined in the following section.

In FY2005, Treasury received \$11.218 billion in appropriated funds—or 1.1% more than it received in FY2004. Most of this money (about 91%) was used to finance the operations of the IRS, whose budget was set at \$10.236 billion. The remaining \$982 million was distributed in the following manner among Treasury's other bureaus and departmental offices: departmental offices (which includes the Office of Terrorism and Financial Intelligence or TFI), \$156 million; Office of Foreign Assets Control (OFAC), \$22 million; department-wide systems and capital investments, \$32 million; Office of Inspector General, \$16 million; Treasury Inspector General for Tax Administration (TIGTA), \$128 million; Air Transportation Stabilization program, \$2 million; Community Development Financial Institutions Fund (CDFI), \$55 million; Treasury building and annex repair and restoration, \$12 million; Financial Crimes Enforcement Network (FinCEN), \$72 million; Financial Management Service, \$229 million; Alcohol and Tobacco Tax and Trade Bureau, \$82 million; and Bureau of the Public Debt, \$174 million. These amounts reflected the 0.83% across-the-board cut (or rescission) in non-defense discretionary spending enacted for FY2005.

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<sup>14</sup> For more information on the proposed budget for the Treasury, see CRS Report RL32898, *Appropriations for the Treasury Department and Internal Revenue Service in FY2006: Issues for Congress*, by Gary Guenther.

**Table 5. Title II: Department of the Treasury Appropriations,  
FY2005 to FY2006**  
(millions of dollars)

<b>Program or Account</b>	<b>FY2005 Enacted*</b>	<b>FY2006 Request</b>	<b>FY2006 House Passed</b>	<b>FY2006 Senate Passed</b>	<b>FY2006 Enacted</b>
Departmental Offices	\$156	\$195	\$157	\$198	\$197
Office of Foreign Asset Control	22	—	—	—	—
Department-wide Systems and Capital Investments	32	24	21	24	24
Office of Inspector General	16	17	17	17	17
Treasury Inspector General for Tax Administration	128	133	133	133	133
Air Transportation Stabilization Program	2	3	—	3	3
Community Development Financial Institutions Fund	55	8	55	55	55
Treasury Building and Annex Repair and Restoration	12	10	10	10	10
Financial Crimes Enforcement Network	72	74	74	74	74
Financial Management Service	229	236	236	236	236
Alcohol and Tobacco Tax and Trade Bureau	82	62	91	91	91
Bureau of the Public Debt	174	177	177	177	177
Internal Revenue Service, Total	10,236	10,679	10,556	10,679	10,672
<i>Processing, Assistance and Management</i>	<i>4,057</i>	<i>—</i>	<i>4,182</i>	<i>4,137</i>	<i>4,137</i>
<i>Tax Law Enforcement</i>	<i>4,364</i>	<i>—</i>	<i>4,580</i>	<i>4,726</i>	<i>4,726</i>
<i>Information Systems</i>	<i>1,578</i>	<i>—</i>	<i>1,575</i>	<i>1,598</i>	<i>1,599</i>
<i>Business Systems Modernization</i>	<i>203</i>	<i>199</i>	<i>199</i>	<i>199</i>	<i>199</i>
<i>Health Insurance Tax Credit Administration</i>	<i>35</i>	<i>20</i>	<i>20</i>	<i>20</i>	<i>20</i>
<b>Total Appropriations, Dept. of the Treasury</b>	<b>11,218</b>	<b>11,649</b>	<b>11,529</b>	<b>11,698</b>	<b>11,689</b>

**Source:** Figures are from a budget authority table provided by the House Committee on Appropriations, except Senate Committee figures are from a budget table in S.Rept. 109-109. Because of differing treatment of offsets, the totals will not always match the Administration's totals. The figures within this table may differ slightly from those in the text due to supplemental appropriations, rescissions, and other funding actions. Columns may not add due to rounding or exclusion of smaller program line-items.

\*FY2005 figures reflect an across-the-board rescission of 0.83%.

For FY2006, the Bush Administration asked Congress to provide Treasury with \$11.649 billion in appropriated funds—or 3.8% more than the amount enacted for FY2005. Under the request, the vast majority of this requested funding would have gone to the IRS, whose budget would have totaled \$10.679 billion. The remaining funds would have been distributed as follows: departmental offices, \$195 million;

departmental systems and capital investments, \$24 million; Office of Inspector General, \$17 million; TIGTA, \$133 million; Air Transportation Stabilization program, \$3 million; CDFI, \$8 million; Treasury building and annex repair and restoration, \$10 million; FinCEN, \$74 million; Financial Management Service, \$236 million; Alcohol and Tobacco Tax and Trade Bureau, \$62 million; and Bureau of the Public Debt, \$177 million. All accounts except those for departmental systems and capital investments and Treasury building and annex repair and restoration would have been funded at higher levels than in FY2005. The Administration also requested that funding for OFAC be folded into the budget for departmental offices and not treated as a separate account. Under the Administration's proposed budget, total full-time employment at Treasury was projected to rise from 113,002 in FY2005 to 113,242 in FY2006.<sup>15</sup>

According to budget documents released by the Treasury Department, its FY2006 budget request was intended to support a variety of strategic objectives. The most important were improving taxpayer compliance with tax laws; modernizing IRS's computer and management systems; enhancing Treasury's capability to analyze and disrupt terrorist financing and other financial crimes; and maintaining and safeguarding the integrity of federal finances and the U.S. financial system.

Congressional action on the Administration's budget request for FY2006 commenced in the House with a series of hearings held by the House Appropriations Subcommittee on Transportation, Treasury, Housing and Urban Development, the Judiciary, and District of Columbia in March, April, May, and June of 2005. On June 15, the Subcommittee approved by voice vote a measure (H.R. 3058) to provide funding for Treasury and a handful of other federal agencies in FY2006. The Appropriations Committee favorably reported by voice vote (H.Rept. 109-153) an amended version of H.R. 3058 on June 21. Following the consideration of 48 amendments spread over two days of floor debate, the House approved the measure on June 30 by a vote of 405 to 18 and sent it on to the Senate.

As passed by the House, H.R. 3058 would have given the Treasury Department \$11.529 billion in funding in FY2006—or \$311 million more than the amount enacted for FY2005 but \$120 million less than the level of funding requested by the Bush Administration. The IRS would have received \$10.556 billion to fund its operations—or \$320 million more than its budget in FY2005 but \$123 million less than the amount requested by the Administration. As recommended by the Appropriations Committee in its report on H.R. 3058, the House denied a request by the Administration to combine funding for taxpayer service, tax law enforcement, and IRS information systems into a new single appropriations account for tax administration and operations. In addition, the measure would have raised funding in FY2006 relative to the previous fiscal year for the following accounts: Alcohol and Tobacco Tax and Trade Bureau, +\$9 million; Financial Management Service, +\$7 million; TIGTA, +\$5 million; Bureau of Public Debt, +3 million; FinCEN, +\$2 million; and departmental offices (which includes OFAC and TFI) and Office of Inspector General, +\$1 million. Three accounts would have received less in FY2006 than in FY2005: department-wide systems and capital investments, -\$11 million;

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<sup>15</sup> U.S. Treasury Department, *Budget in Brief FY2006* (Washington: Feb. 2005), p. 8.

Treasury building and annex repair and restoration, -\$2 million; and CDFI, -\$0.1 million. And one existing account would have received no funding, effectively canceling it: the Air Transportation Stabilization program.

In the Senate, the Appropriations Committee favorably reported by a vote of 28 to 0 on July 21 (S. Rep. 109-109) an amended version of H.R. 3058 as passed by the House. After three days of debate and the consideration of over 100 amendments, the full Senate approved by a vote of 93 to 1 on October 20 a version of H.R. 3058 that differed in some significant ways from the House-passed version.

As passed by the Senate, H.R. 3058 would have given Treasury \$11.698 billion in funding in FY2006—or \$485 million more than the amount enacted for FY2005, \$49 million more than the amount requested by the Bush Administration, and \$169 million more than the amount approved by the House. The IRS would have received \$10.679 billion—or \$443 million more than its budget in FY2005, the same amount as the Administration's budget request, and \$123 million more than the amount approved by the House. Like the House, the Senate denied a request by the Administration to combine funding for taxpayer service, tax law enforcement, and IRS information systems into a new single appropriations account for tax administration and operations. But unlike the House, the Senate gave the IRS the same amount for tax law enforcement that the Administration asked for: \$4.726 billion. What is more, the following accounts would have received an increase in funding relative to FY2005: departmental offices (including OFAC and TFI), +\$42 million; Alcohol and Tobacco Tax and Trade Bureau, +\$9 million; Financial Management Service, +\$7 million; TIGTA, +\$5 million; Bureau of the Public Debt, +\$3 million; FinCEN, +2 million; and Air Transportation Stabilization program and Office of Inspector General, +\$1 million. The Senate-passed version of H.R. 3058 would also have restored funding for two programs whose funding was rescinded in FY2005: expanded access to financial services (+\$4 million) and violent crime reduction (+\$1 million). Funding for three Treasury accounts would have been cut relative to the amounts enacted for FY2005: department-wide systems and capital investments, -\$8 million; Treasury building and annex repair and restoration, -\$2 million; and CDFI, -\$0.1 million.

There were significant differences between the House- and Senate-passed versions of H.R. 3058. As a result, a conference committee had to be formed in order to resolve those differences and reach an agreement that could gain the support of both houses. Such a committee was formed in late October, and it reached an agreement that was spelled out in a conference report (H.Rept. 109-307) released on November 18. Later the same day, the House approved the report on H.R. 3058 by a vote of 392-31, and the Senate did likewise through a procedure known as unanimous consent. President Bush signed the measure on November 30.

Under the enacted version of H.R. 3058, Treasury is receiving \$11.698 billion in appropriated funds in FY2006—or \$471 million more than it received in FY2005. Of this amount, \$10.671 billion goes to the IRS—or \$435 million more than it received in FY2005. The conference report specifies that the IRS may reorganize or reduce its workforce only with the consent of the House and Senate Appropriations Committees. In addition, the act gives \$197 million to Treasury's departmental offices—or \$40 million more than the amount enacted in FY2005; \$40 million of this

amount is to be used for combating financial crimes, \$22 million of which is to go to OFAC. The remaining accounts are funded at the following levels: department-wide systems and capital investments programs, \$24 million; Office of Inspector General, \$17 million; TIGTA, \$133 million; Air Transportation Stabilization program, \$3 million (which is to be made available until spent); Treasury building and annex repair and restoration, \$10 million; FinCEN, \$74 million; Financial Management Service, \$236 million; Alcohol and Tobacco Tax and Trade Bureau, \$91 million; Bureau of Public Debt, \$177 million; and CDFI, \$55 million (which is to be available until September 30, 2007).

**Internal Revenue Service (IRS).** In FY2005, the IRS received \$10.237 billion in appropriated funds—or 0.3% more than it received in FY2004. Of this amount, \$4.057 billion was intended for processing, assistance, and management; \$4.364 billion for tax law enforcement; \$1.578 billion for information systems management; \$203 million for the business systems modernization program (BSM); and \$35 million to administer the health insurance tax credit established by the Trade Act of 2002. These amounts reflected a rescission of 0.83% that was included in the measure funding Treasury operations in FY2005. Of the funds appropriated for processing, assistance, and management, Congress specified that \$4 million be used to operate the Tax Counseling for the Elderly program and that \$7.5 million be used as grants for low-income taxpayer clinics. None of the funds appropriated for the BSM program could be spent without the consent of the House and Senate Appropriations Committees. In addition, the IRS Commissioner was required to submit quarterly reports to both committees in FY2005 assessing the results of the agency's initiatives to improve taxpayer compliance.

The Bush Administration requested that IRS operations be funded at \$10.679 billion in FY2006—or 4.3% more than the amount enacted for FY2005. To more closely align its budget request with IRS's major programs and current strategic plan, the Administration proposed that the agency's budget be restructured beginning in FY2006. Under the proposal, the number of accounts in the IRS budget would be reduced from six to three: tax administration and operations (TAO), BSM, and administration of the health insurance tax credit. TAO would replace the existing accounts for tax law enforcement; processing, assistance, and management; and information systems. For FY2006, the Administration sought \$10.460 billion in appropriated funds for TAO—or about 5% more than the amount set aside for this purpose in FY2005; \$199 million for BSM—or 2% less than the amount enacted for FY2005; and \$20 million for administration of the health insurance tax credit—or 41.5% less than the amount enacted in FY2005. Compared to the FY2005 budget, the Administration was seeking \$500 million more for enforcement but \$38 million less for taxpayer service and \$4 million less for the BSM program. Some feared that a reduction in funding for taxpayer service would lead to higher rates of non-compliance among taxpayers who rely heavily on taxpayer assistance centers (TACs) and IRS toll-free phone assistance centers to fulfill their obligations under the federal tax code.<sup>16</sup> The Administration estimated that its budget request would boost total full-time employment at the IRS from 97,440 in FY2005 to 97,679 in FY2006.

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<sup>16</sup> Allen Kenney, "Deja Vu? Bush Wants \$500 Million for IRS to Toughen Up in 2006," *Tax Notes*, Feb. 14, 2005, p. 748.



According to budget documents issued by the IRS, the FY2006 budget request was intended to support three key objectives in its current five-year strategic plan: (1) continued improvement of taxpayer service; (2) strengthened enforcement of the tax laws; and (3) continued modernization of IRS's information systems.

Under a measure (H.R. 3058) providing appropriations for Treasury and a handful of other federal agencies approved by the House on June 30, 2005, the IRS would have received \$10.556 billion in funds in FY2006. This amount was \$319 million more than the agency received in FY2005 but \$123 million less than the amount requested by the Bush Administration. The House also rejected the Administration's proposed revision of the IRS budget. As a result, it is difficult to compare the Administration's budget request for the IRS and the funding for IRS operations recommended in H.R. 3058. Nonetheless, it is possible to compare the funding level approved by the House with the comparable amounts enacted for FY2005. Of the funding level for the IRS approved by the House, \$4.182 billion—or \$125 million above the level for FY2005—would go to processing, assistance, and management; \$4.580 billion—or \$216 million above the level for FY2005—would be set aside for tax law enforcement; \$1.575 billion—or \$3 million below the level for FY2005—for information systems; \$199 million—or \$4 million below the level for FY2005—for BSM; and \$20 million—or \$14 million below the level for FY2005—for administering the health insurance tax credit. The measure also specified that of the funds recommended for processing, assistance, and management, \$4 million be set aside for the Tax Counseling for the Elderly program, \$8 million for grants for low-income taxpayer clinics, and \$1.5 million for the IRS Oversight Board. Furthermore, H.R. 3058 included a provision barring the IRS from closing or consolidating any Taxpayer Assistance Centers (TACs) until TIGTA completed a "thorough study" of the likely impact of such an initiative on taxpayer compliance.

In late May 2005, the IRS announced that it planned to close 68 of 400 TACs by the end of FY2005; two months later the IRS announced that it was suspending the plan until Congress had approved a budget for the agency in FY2006. Earlier in 2005, the IRS also revealed that it was planning to reduce the weekly hours of operation for toll-free telephone assistance for individual taxpayers.

The Senate approved an amended version of H.R. 3058 by a vote of 93 to 1 on October 20. It would have given the IRS the same level of funding in FY2006 requested by the Bush Administration: \$10.679 billion—or \$443 million more than the amount enacted for FY2005 and \$123 million more than the amount approved by the House. Like the House, the Senate rejected the Administration's proposed restructuring of the IRS budget on the grounds that it was "overly simplistic" and would have hindered the ability of the Senate and House Appropriations Committees to hold the IRS accountable for its use of appropriated funds. Under the Senate-passed version of H.R. 3058, the IRS would have received \$4.137 billion for processing, assistance, and management—or \$80 million than the amount enacted for FY2005 but \$45 million less than the amount approved by the House; \$4.726 billion for tax law enforcement—or \$362 million more than the amount enacted for FY2005 and \$145 million more than the amount approved by the House; \$1.598 billion for information systems—or \$20 million more than the amount enacted for FY2005 and \$23 million more than the amount approved by the House; \$199 million for BSM—or \$4 million less than the amount enacted for FY2005 but the same amount requested by the Bush Administration and recommended by the House; and \$20

million for administering the health insurance tax credit—or \$14 million less than the amount enacted for FY2005 but the same amount requested by the Administration and approved by the House. Like the version of H.R. 3058 passed by the House, the measure also specified that the IRS may not cut services to taxpayers until TIGTA completed a study assessing the likely effects on taxpayer compliance of planned reductions in the number of TACs and the operating hours of IRS call centers offering taxpayer assistance. The Senate also agreed with the House in setting aside \$4 million for the Tax Counseling for the Elderly program and \$8 million for grants to low-income taxpayer clinics. But unlike the House-passed bill, the version of H.R. 3058 passed by the Senate would have removed the cap imposed by the FY1995 Treasury, Postal Service and General Government Appropriations Act on the amount of user fees collected by the IRS in a fiscal year that it is allowed to retain, and it would have prevented the IRS from competing with the private sector in developing tax return preparation software by requiring the agency to continue an agreement reached with the Free File Alliance in 2002.

The significant differences between the House- and Senate-passed versions of H.R. 3058 meant that a conference committee needed to be formed in order to resolve them. Such a committee was formed in late October. On November 18, it released a conference report (H.Rept. 109-307) detailing the terms of the agreement it had reached. Later the same day, the House approved the conference agreement on H.R. 3058 by a vote of 392 to 31, and the Senate did likewise by unanimous consent. President Bush signed the measure on November 30.

Under the enacted version of H.R. 3058, the IRS is receiving \$10.672 billion in FY2006—or \$435 million more than it received in FY2005. Of this amount, \$4.137 billion is being used for processing, assistance, and management; \$4.726 billion for tax law enforcement; \$1.599 billion for information systems; \$199 million for BSM; and \$20.2 million for administering the health insurance tax credit. The act specifies that the IRS may not reorganize or reduce its workforce without the consent of the House and Senate Appropriations Committees. It also directs the IRS not to compete in the market for tax return preparation software and bars the agency from reducing taxpayer service until TIGTA completes a report on the effects of proposed service reductions on taxpayer compliance. In addition, under the act, the IRS is required to develop, in consultation with the IRS Oversight Board and the National Taxpayer Advocate, a five-year plan for improving taxpayer services based on a reasonable balance between strategic goals for enforcement and service, and to submit the plan to the Committees no later than April 14, 2006.

## Title III: Department of Housing and Urban Development

**Table 6. Title III: Housing and Urban Development  
Appropriations, FY2005 to FY2006**  
(budget authority in \$ billions)

Program	FY2005 enacted	FY2006 request	FY2006 House	FY2006 Senate	FY2006 Enacted
Tenant-based rental assistance (Sec. 8 vouchers) (includes advanced appropriation)	14.766	15.845	15.631	15.636	15.574
Project-based rental assistance (Sec. 8)	5.298	5.072	5.088	5.072	5.088
Public housing capital fund	2.579	2.327	2.600	2.327	2.464
Public housing operating fund	2.438	3.407	3.600	3.557	3.600
HOPE VI	0.143 <sup>a</sup>	0.000 <sup>a</sup>	0.060	0.150	0.100
Native American housing block grants	0.622	0.583 <sup>b</sup>	0.600 <sup>c</sup>	0.622	0.630
Native Hawaiian Block Grant	<sup>d</sup>	0.009	0.009	<sup>d</sup>	0.009
Housing for Persons With AIDS (HOPWA)	0.282	0.268	0.290	0.287	0.289
Rural Housing Economic Development	0.024	0.000 <sup>e</sup>	0.010	0.024	0.017
Empowerment Zones; Enterprise Communities (EZ/EC)	0.010	0.000 <sup>e</sup>	0.000	0.000	0.000
Community Development Fund (CDF)/Community Development Block Grant (CDBG) (including supplemental funding)	4.852 <sup>f</sup>	0.000 <sup>e</sup>	4.243 <sup>g</sup>	4.324	4.220 <sup>p</sup>
Brownfields redevelopment	0.024	0.000 <sup>e</sup>	<sup>g</sup>	0.015	0.010
HOME Investment Partnerships	1.900	1.941	1.900	1.900	1.775
Homeless Assistance Grants	1.241	1.440	1.340	1.415	1.340
Self Help Homeownership	<sup>h</sup>	0.030	0.061 <sup>i</sup>	<sup>h</sup>	0.061 <sup>i</sup>
Housing for the elderly (Sec. 202)	0.741	0.741	0.741	0.742	0.742
Housing for the disabled (Sec. 811)	0.238	0.120	0.238	0.240	0.239
Housing Counseling Assistance	<sup>j</sup>	0.040	<sup>k</sup>	<sup>k</sup>	0.000

<b>Program</b>	<b>FY2005 enacted</b>	<b>FY2006 request</b>	<b>FY2006 House</b>	<b>FY2006 Senate</b>	<b>FY2006 Enacted</b>
Rental Housing Assistance	0.000	0.026	0.026	0.026	0.026
Research and technology	0.045	0.070 <sup>l</sup>	0.061 <sup>l</sup>	0.048	0.056
Fair housing activities	0.046	0.039	0.047	0.046	0.046
Office, lead hazard control	0.167	0.119	0.167	0.167	0.152
Salaries and expenses	0.543	0.579	0.579	0.570	0.579
Working capital fund	0.268	0.265	0.062	0.265	0.197
Inspector General	0.079	0.079	0.079	0.082	0.082
Loan Guarantees <sup>m</sup>	0.013	0.004	0.004	0.013	0.009
<b>Appropriations subtotal</b>	<b>36.318</b>	<b>33.003</b>	<b>37.226</b>	<b>37.529</b>	<b>37.305</b>
Sec. 8 recaptures (rescission)	-1.557	-2.500	-2.494	-1.500	-2.050
HOPE VI rescission <sup>a</sup>	0.000	-0.143	0.000	0.000	0.000
Brownfields rescission	0	0	0	0	-0.010 <sup>n</sup>
Other rescissions	-0.764 <sup>o</sup>	0.000	0.000	0.000	0.000
<b>Rescissions subtotal</b>	<b>-2.321</b>	<b>-2.643</b>	<b>-2.494</b>	<b>-1.500</b>	<b>-2.060</b>
Federal Housing Administration (net)	-1.724	-0.856	-0.913	-0.913	-0.913
GNMA (net)	-0.357	-0.357	-0.357	-0.357	-0.357
<b>Offsets subtotal</b>	<b>-2.082</b>	<b>-1.213</b>	<b>-1.271</b>	<b>-1.270</b>	<b>-1.271</b>
<b>Total</b>	<b>\$31.915</b>	<b>\$29.147</b>	<b>\$33.671</b>	<b>\$34.759</b>	<b>\$33.974</b>

**Source:** Prepared by CRS based on information provided by the House Committee on Appropriations, HUD's Congressional Budget Justifications, House and Senate versions of H.R. 3058, H.Rept. 109-153, and S.Rept. 109-109 and Conf. Rept. 109-307. FY2005 figures are adjusted to reflect the 0.8% across-the-board rescission enacted in P.L. 108-447.

**Note:** This table does not include two accounts whose costs are equal to their offsetting receipts: Manufactured Housing Fees Trust Fund (\$12.9 million in FY2005 and \$13 million in FY2006) and the Office of Federal Housing Enterprise Oversight (\$58.7 million in FY2005 and \$60 million in FY2006).

- a. The Administration has proposed that in FY2006, Congress provide no new funding and also rescind the HOPE VI funding provided in FY2005.
- b. Includes \$58 million for Indian community and economic development activities, which, in FY2005, received \$68 million as a set-aside within the Community Development Fund.
- c. Includes \$45 million for Indian community and economic development activities, which, in FY2005, received \$68 million as a set-aside within the Community Development Fund.
- d. In FY2005, \$8.9 million was provided for this program (Hawaiian Homelands Homeownership) as a set-aside within the Community Development Fund. The Senate bill provides \$8.8 million for this program in the Community Development Fund.
- e. For FY2006, the Administration proposes to eliminate these programs and replace them with a new program funded in the Commerce Department.
- f. The CDBG appropriation includes \$180.8 million in CDBG supplemental funding for FY2005, including \$30.8 million appropriated under Section 424 of P.L. 108-447 and \$150 million appropriated under P.L. 108-324.
- g. Two floor amendments to the House Appropriations Committee version of H.R. 3058, adding funds to the CDF account, were approved. H.Amdt. 396 added \$67.5 million to the CDF

- account to increase funding for CDBG formula grants and ensure funds were available for Youth build. H.Amdt. 404 added \$24 million to the CDF account to be used for Brownfields.
- h. In FY2005, \$24.8 million was provided for this program as a set-aside within the Community Development Fund. The Senate bill provides \$15 million for this program in the Community Development Fund.
  - i. The House bill proposed to rename this account Self-Help and Assisted Homeownership and transfer to it funding for several set-asides that were formerly funded under the Community Development Fund. The final version of the bill adopted the House proposal, although it allocates the funds within the account differently.
  - j. In FY2005, \$41.7 million was provided for this program as a component of HOME.
  - k. The House provides \$41.7 million for Housing Counseling Assistance as a set-aside within the HOME program. The Senate bill provides \$42 million for Housing Counseling Assistance as a set-aside within the HOME program.
  - l. Includes \$29 million requested for University Partnerships, which, in FY2005, received a total of \$33 million as set-asides within the Community Development Fund.
  - m. This category includes Section 108 (\$7 million in FY2005, \$0 in President's request and House bill, \$7 million in Senate bill), Native Hawaiian housing (\$992,000 in FY2005 and \$882,000 in President's request and House bill, \$1 million in Senate bill) and Indian housing loan guarantees (\$5 million in FY2005 and \$2.6 million in President's request and House bill, \$5 million in Senate bill). For FY2006, the Administration proposes to eliminate Section 108 loan guarantees and replace them with the new larger program in the Commerce Department.
  - n. The bill rescinds \$10 million from prior years' appropriations; however, if sufficient funds are not available, they can be taken from current year appropriations.
  - o. Includes one-time rescissions of unobligated balances from the following accounts: Public Housing Drug Elimination grants, Title VI credit subsidy, Urban Development Action Grants, rental housing assistance and GI/SRI credit subsidy.
  - p. Includes \$310 million for Economic Development Initiative earmarks, \$50 million for YouthBuild, \$50 million for Neighborhood Initiative earmarks, \$60 million for Indian CDBG, and \$1.6 million for Working Capital Fund.

## Department of Housing and Urban Development Budget and Key Policy Issues<sup>17</sup>

The President's proposed FY2006 HUD budget of \$29.1 billion represented a decline of almost 9% from the FY2005 enacted level of \$31.9 billion. This decrease resulted from several factors including a proposed transfer of the Community Development Block Grant program (CDBG) to the Department of Commerce and the reduction or elimination of other HUD programs. Proposed cuts to the major HUD programs are discussed below. Proposed cuts to smaller programs include reductions in the Lead-Based Paint Hazard Reduction program (-29%); Native American Block Grants (-6%); Fair Housing programs (-15%); and Housing for Persons with AIDS (-5%). Several program increases were proposed, including a \$1.1 billion increase for HUD's largest program, the \$14.8 billion Section 8 voucher program, and a \$200 million increase for Homeless Assistance Grants.

On June 30, 2005, the House passed its version of H.R. 3058, the FY2006 HUD funding bill, proposing over \$4 billion more for the Department than the President

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<sup>17</sup> For more details on the proposed HUD budget, see CRS Report RL32869, *The Department of Housing and Urban Development (HUD): Fiscal Year 2006 Budget*, by Maggie McCarty, Libby Perl, Bruce Foote, and Eugene Boyd. For a similarly detailed examination of the FY2005 budget, see CRS Report RL32443, *The Department of Housing and Urban Development (HUD): FY2005 Budget*, by Richard Bourdon (coordinator), Bruce Foote, Maggie McCarty, and Eugene Boyd.

requested. It proposed to continue to fund CDBG within HUD and would have maintained or increase funding for several programs slated for cuts in the President's budget.

The Senate passed its version of H.R. 3058, the FY2006 HUD funding bill, on October 20, 2005. The bill proposed over \$34 billion for HUD, an increase over the FY2005 budget, the President's request, and the House-approved level. Like the House bill, the Senate bill would have continued to fund CDBG within the HUD budget and restored funding for a number of programs proposed for reductions.

The final conference agreement on H.R. 3058 passed Congress on November 18, 2005, and was signed into law on November 30, 2005 (P.L. 109-115). For most accounts, the conference agreement split the difference between the House and Senate-passed funding levels. It continues to fund CDBG within HUD, but reduces its overall funding level. It also contains a provision restricting the use of federal economic development funds in projects involving the use of eminent domain.<sup>18</sup>

### **Community and Economic Development Programs Consolidation**

**Proposal.** The Bush Administration budget recommendations for FY2006 included a proposal that would have consolidated the activities of at least 18 existing community and economic development programs into a two-part grant proposal called the "Strengthening America's Communities Initiative (SACI)." As outlined by the Administration, the proposal would have realigned several, but not all, federal economic and community development programs. The most prominent of these programs is the Community Development Block Grant program. Other HUD programs that would have been eliminated under the Administration proposal included Empowerment Zones, Brownfield Economic Development Initiatives, CDBG Section 108 loan guarantees, and Rural Housing and Economic Development Grants. If approved by Congress, the Department of Commerce would have been responsible for administering the new program that would have replaced the 18 existing programs that are currently administered by five federal agencies.

The Administration proposal would have reduced aggregate funding from \$5.6 billion in FY2005 for the programs proposed for consolidation to \$3.7 billion in FY2006 for the new program. The Administration offered a general outline of the new programs, but it did not submit a detailed realignment proposal for congressional consideration. It stated that the proposed new program would emphasize flexibility, would be results oriented, and would be targeted to communities based on need. The Administration sought this realignment, in part, because many of the 18 programs recommended for elimination have been judged by the Administration to be ineffective, unable to demonstrate results, or duplicative of the efforts of other federal programs.

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<sup>18</sup> After enactment of H.R. 3058, Congress passed the FY2006 Defense appropriations bill, which includes a one percent across-the-board rescission of all non-emergency FY2006 federal discretionary funding; that bill also included a supplemental appropriation of \$11.9 billion to HUD to respond to the consequences of Hurricanes Katrina, Rita, and Wilma.

The agency that would have been most affected by the proposal is HUD; programs administered by HUD account for nearly 81% of the \$5.6 billion in FY2005 funding. The agency's Community Development Block Grant formula grants represent 74% of the total. The consolidation proposal was opposed by groups representing state and local officials including the U.S. Conference of Mayors, the National Governors Association, National League of Cities, and National Association of Counties. The House and Senate-passed budget resolutions for FY2006 both included language that supported the continuation of the CDBG program. The House version of H.Con.Res. 95 included language increasing funding for the community and regional development budget function by \$1.1 billion to \$4.8 billion.

The Senate version of the budget resolution would have restored \$2 billion that would have been cut under the SACI proposal and stipulated that the funds were to be used to support CDBG and the other 17 programs targeted for elimination by the Administration. The conference agreement on the FY2006 budget resolution (H.Rept. 109-62) assumed \$1.5 billion more than the President requested for Community and Economic Development purposes and the accompanying Joint Statement of Managers indicated that the increase is intended to maintain economic and community development programs such as CDBG at FY2005 levels.

On June 21, the House Committee on Appropriations completed consideration of H.R. 3058, the FY2006 appropriations bill for HUD (and several other agencies). The measure rejected the Administration's proposed "Strengthening America's Communities Initiative" and recommended \$4.15 billion for the CDBG program and Economic Development Initiative (EDI) grants. This included \$3.86 billion for CDBG formula grants awarded to entitlement communities and states, which was \$250 less than appropriated in FY2005. The Committee also included \$290 million for EDI grants for congressional earmarked projects. The committee bill did not provide funding for a number of CDBG set-asides and related programs, including Youthbuild, Empowerment Zones, Brownfields, and Section 108 loan guarantees. In addition, the committee bill recommended transferring funding for several CDBG-related set-asides to other accounts within HUD. The bill included a new self-help and assisted homeownership account that would have provided \$23 million for the Self-Help Homeownership Program (SHOP), \$28 million for the National Community Development Initiative, \$3 million for the Housing Assistance Council and \$1 million each for the Special Olympics and the Native American Indian Housing Council. Indian CDBG would have been funded as a set-aside of \$45 million within the Native American Housing Block Grants account. The Committee also recommended transferring to HUD's Office of Policy Development and Research \$29 million in funding for university programs previously included as CDBG set-asides under Section 107 — including assistance to historic black colleges and universities, institutions serving Hispanic populations, and a community development work study program.

The House approved the Committee's recommendations, and also approved two amendments increasing FY2006 funding for the Community Development Fund account (CDF). The House approved by voice vote an amendment offered by Representative Gary Miller adding \$24 million to the CDF for HUD's Brownfield program. It also approved by voice vote an amendment introduced by Representative Knollenberg that provided an additional \$67.5 million to the CDF. Floor debate indicated that up to \$50 million of the increase was to be used to fund the Youthbuild

program, assuming it was not funded within the Department of Labor's budget. The remaining \$17.5 million was designated for CDBG formula-based grants. This increase would have resulted in CDBG formula-based funding at more than \$230 million below the FY2005 level. During floor consideration of the bill, the chairman of the HUD Appropriations Subcommittee, Representative Knollenberg, stated that it was his intention to find a way to restore the CDBG formula-based program to its FY2005 funding level.

The Senate version of the bill would have appropriated \$4.3 billion for Community Development Fund (CDF) activities, which would be a decrease of \$528 million from FY2005. The bill included \$3.77 billion for CDBG formula grants, which was a \$100 million decrease from the House and a \$350 million decrease from FY2005. It also included \$556.2 million for CDBG-related set asides and earmarks.

Unlike the House bill, which would have provided no funding, reduced funding, or would have transferred the activity to another account within HUD, the Senate bill recommended retaining funding for most of the CDBG-related set-asides within the CDF account. For instance, the Senate bill included \$69 million for the Native American CDBG while the House version would have appropriated \$45 million for the program within the Native American Housing Block Grant. The Senate bill would have appropriated \$32.4 million in funding for college and university programs and retained the programs under the CDF account while the House bill would have transferred these activities to the Research and Development account; it would have appropriated \$40 million for the Neighborhood Initiative Program, a program that was not included in the President's request or the House version of the bill; and it would have appropriated \$30 million for capacity building grants under the National Community Development Initiative program, which is \$2 million less than the amount recommended by the House within a new Self Help and Assisted Homeownership account.

During the Senate Appropriations Committee consideration of H.R. 3058, Senator Bond introduced and then withdrew a proposed amendment that would have prohibited the use of federal funds in economic development projects involving the use of eminent domain. The amendment would have allowed the use of federal funds if the project involved airports, seaports, mass transit, or was intended to revitalize a blighted area.

The conference version of H.R. 3058, which was approved by the House on November 18, and the Senate on November 21, 2005, appropriates \$4.220 billion for Community Development Fund activities including \$3.748 billion for the CDBG formula grant program. This is slightly less than the \$3.770 billion recommended by the Senate and the \$3.86 billion recommended by the House. The act includes \$471 million for a select number of CDF set asides and earmarks with the majority of such funds — \$310 million — allocated among 1,126 EDI earmarked projects. Of the remaining funds \$50 million is earmarked for 50 Neighborhood Initiative projects identified in the conference report, \$1.6 million for the Working Capital Fund, and \$50 million is to be awarded to local YouthBuild organizations.

The \$310 million in EDI earmarks represent a 7% increase in funding for such projects over the amount appropriated in FY2005 (\$290 million) while the \$3.748



billion in CDBG formula grants is 9% less than appropriated for such grants in FY2005. The Administration, some Members of Congress, and organizations representing states and local governments have voiced concern about the use, growth rate, and non-competitive nature of earmarks. They argue that the steady increase in earmark projects siphons funds from the need-based formula portion of the program.

The conference version of the act, consistent with the recommendations included in the House, shifts funding for a number of programs previously funded under this account to other HUD accounts. Funding for the SHOP program (\$20 million), National Community Development Initiative (\$30 million), the Housing Assistance Council (\$3 million), the National American Indian Housing Council (\$1 million), and the La Raza HOPE Fund (\$4 million) are now funded under a new Self-Help Assisted Homeownership account. Assistance for minority universities and colleges previously funded under Section 107 (Special Projects) are now funded under the Policy Development and Research account at \$20.6 million.

The Senate version of H.R. 3058 recommended continued funding of the Section 108 loan guarantee program by appropriating \$6 million in loan subsidies in support of a loan commitment ceiling of \$275 million. The Administration included the Section 108 program in the list of programs whose activities were to be consolidated under its Strengthening America's Communities Initiative. The House version of H.R. 3058 did not include funding for the program. The conference version of the act includes \$3 million in loan subsidies in support of a loan commitment ceiling of \$137 million.

Section 726 of the General Provisions of Title VII of the TTHUD Appropriations Act for FY2006, includes the language prohibiting federal, state, and local governments from using funds appropriated under the act for projects involving the use of eminent domain unless such projects or activities involve a public purpose. The provision excludes economic development "that primarily benefits private entities" as an eligible public purpose, except in cases involving the removal of blighted areas, brownfield redevelopment, mass transit, transportation and utility projects that benefit the general public. Such projects would be allowed the use of eminent domain without the loss of federal funds. The provision also directs the Government Accounting Office and the National Academy for Public Administration, state and local government organizations, and property rights organizations to conduct a study-by-state study of the use of eminent domain.

For additional information on the Administration's SACI proposal see CRS Report RL32823, *An Overview of the Administration's Strengthening America's Communities Initiative*, by Eugene Boyd (coordinator), Bruce Mulock, Pauline Smale, Tadlock Cowan, Garrine Laney, and Bruce Foote.

**Section 8 Voucher Funding Level and Reform Proposal.** The President's FY2006 request for the Section 8 tenant-based rental assistance program, also called the Section 8 voucher program, represented a 7% increase in funding over FY2005. These additional funds were to be used to renew existing subsidies, rather than create new subsidies. The President's budget proposed to continue and expand the practice of funding public housing authorities (PHAs) on the basis of fixed costs, rather than on actual costs (as was the practice prior to FY2004), and on the basis of

fixed utilization rates, rather than on all available vouchers (as was the practice prior to FY2005). This “budget-based” funding structure has been controversial among some PHAs, who argue it does not provide them with sufficient funding to meet their local needs.

Beyond funding levels, the budget request also stated that the President intended to introduce a new proposal to reform the tenant-based voucher program. One purpose for this reform proposal was to contain, if not reduce, costs. According to the President’s budget summary, “Section 8’s program costs are cannibalizing every HUD program — at the same time waiting lists of families seeking housing continue to grow.” The FY2006 HUD Congressional Budget Justifications stated that the new proposal would provide additional flexibility to PHAs which would enable them to run their programs more effectively and efficiently. The Administration’s reform proposal was introduced in the Senate (S. 771) on April 13 and in the House (H.R. 1999) on April 28, 2005, although no further action has been taken. Reform proposals were also submitted as part of the FY2004 and FY2005 budgets; no congressional action was taken on either proposal.

The House Appropriations Committee recommended \$15.5 billion for tenant based rental assistance, which is \$765 million more than was provided in FY2005 but \$314 million less than the President requested. Under the House bill, funding would have been allocated to agencies based on the amount they received in the previous year, plus inflation. The \$15.5 billion included a set-aside of funds that the Secretary could have used to adjust the budgets of agencies that were negatively impacted by the FY2005 formula due to anomalous circumstances, such as an increase in voucher holders moving to more expensive areas. On June 30, 2005, during House floor consideration of the bill, an amendment offered by Representative Nadler added an additional \$100 million to the tenant-based rental assistance account, increasing the appropriation to \$15.6 billion. The amendment offset the increase by decreasing funding for the Working Capital Fund by \$120 million.

The Senate-passed bill would also have funded the voucher program at \$15.6 billion in FY2006. It proposed to allocate renewal funds based on agencies’ most recent 12 months of cost and utilization data, an allocation method advocated by PHAs and low-income housing groups. It also proposed to set aside funds to be provided to agencies that were negatively impacted by the FY2005 distribution formula.

The conference version of H.R. 3058 funded renewals at the President’s requested level. It adopted the President’s requested and House approved allocation method and set aside \$45 million for the Secretary to use to adjust agency budgets.

For additional information, see CRS Report RL31930, *Section 8 Housing Choice Voucher Program: Funding and Related Issues*, by Maggie McCarty.

**Section 811 Housing for the Disabled.** The President’s FY2006 request for the Section 811 housing for the disabled program represented a 50% cut in funding from FY2005. The funding provided in the request would not have been available for capital grants to build housing units for the disabled, as in the past. Instead the full amount would have been used to provide vouchers to persons with

disabilities. HUD budget documents do not provide a rationale for the reduction or restriction on use for capital grants. In testimony on March 17, 2005 before the House Appropriations Subcommittee on Transportation, the Treasury, HUD, the Judiciary, and the District of Columbia, the Secretary of HUD referred to the need to make unpopular cuts in programs such as Section 811 in order to maintain adequate funding for Section 8 and programs for the homeless.

The House-passed version of the FY2006 HUD funding bill maintained Section 811 funding at the FY2005 level of \$238 million, while the Senate version increased funding to \$240 million. Both bills permitted funds to be used for capital subsidies. The enacted appropriation for FY2006 provides \$239 million for Section 811, an increase of approximately \$1 million over FY2005, and twice as much as the President's request. Like the House and Senate versions, the conference version includes funds for capital grants.

**HOPE VI.** For a third year, the President's budget requested no new funding for the HOPE VI Revitalization of Distressed Public Housing program. HOPE VI provides grants to local public housing administrators (PHAs) to help fund major redevelopment of troubled public housing projects. The Administration claimed that the program has met its mandate and that program funds are spent too slowly; however, the program has been popular with many local communities and Members of Congress. Despite the President's request, in FY2004 and FY2005, Congress funded HOPE VI, but at a lower level than in FY2003 when over \$570 million was provided to the program. In addition to requesting no new funding for the program in FY2006, the President's budget requested that Congress rescind the funds it provided to the program in FY2005.

The House Appropriations Committee recommended no FY2006 funding for the HOPE VI program, but did not support the President's request to rescind FY2005 funding. In House floor consideration of the bill, an amendment was adopted that provided \$60 million for HOPE VI, offset by a reduction of \$60 million for the General Services Administration's Federal Buildings Fund. The Senate bill proposed \$150 million for HOPE VI in FY2006, slightly more than was provided in FY2005. The conference version of H.R. 3058 funded HOPE VI at \$100 million and did not enact the rescission of FY2005 funds requested by the President. For more information, see CRS Report RL32236, *HOPE VI Public Housing Revitalization Program: Background, Funding, and Issues*, by Maggie McCarty.

**New FHA Proposals.** The Administration's FY2006 budget includes proposals for two new FHA initiatives. Under the **FHA Zero Downpayment Homeownership Option** proposal, first-time buyers with strong credit records would be allowed to finance 100% of their home purchase price and settlement costs. Insurance premiums would be increased to cover the higher risks and costs involved. HUD's FY2006 budget estimates this would generate 204,000 loans and \$230.5 million in net revenue. The House Committee on Appropriations did not assume these revenues in their re-estimate of the President's budget, resulting in a larger proposed appropriation request for HUD. A bill to enact this proposal was introduced in the 109<sup>th</sup> Congress as H.R. 3043. Under the **FHA Payment Incentive Homeownership Initiative**, first proposed in the FY2005 budget, HUD would amend its underwriting guidelines in order to attract borrowers who would otherwise

seek loans in the subprime market. According to HUD, the borrowers would obtain better terms from FHA than would be possible on the subprime market. The increased risk of default and the higher costs associated with these borrowers would be offset by requiring more owner equity and higher insurance premiums, although after a period of on-time payments, the premiums would be reduced. HUD's FY2006 budget estimates this program would generate 64,000 loans a year and increase net revenues by \$37.4 million. The Committee also did not include these revenue projections in their re-estimate of the President's budget.

## Title IV: The Judiciary

### The Judiciary Budget and Key Policy Issues

**Table 7. Title IV: The Judiciary Appropriations,  
FY2005 to FY2006**  
(millions of dollars)

<b>Court, Agency, or Program</b>	<b>FY2005 Enacted<sup>a</sup></b>	<b>FY2006 Request<sup>b</sup></b>	<b>House Passed<sup>c</sup></b>	<b>Senate Passed<sup>d</sup></b>	<b>FY2006 Enacted<sup>e</sup></b>
Supreme Court, Salaries & Expenses	\$57.4	\$60.7	\$60.7	60.7	60.7
Building and Grounds	9.8	5.6	5.6	5.6	5.6
U.S. Court of Appeals for the Federal Circuit	21.5	26.5	24.6	23.5	24.0
U.S. Court of International Trade	14.7	15.5	15.5	15.5	15.5
Courts of Appeals, District Courts, and Other Judicial Services, Salaries & Expenses	4,125.3	4,478.7	4,348.8	4,375.0	4,348.8
Vaccine Injury Act Trust Fund	3.3	3.8	3.8	3.8	3.8
Defender Services	667.3	768.1	721.9	710.8	717.0
Fees of Jurors and Commissioners	60.7	71.3	60.1	61.3	61.3
Court Security	327.6	390.3	379.5	372.4	372.0
Administrative Office of the U.S. Courts	67.3	72.2	70.3	72.2	70.3
Federal Judicial Center	21.4	22.9	22.2	22.4	22.4
Retirement Funds	36.7	40.6	40.6	40.6	40.6
U.S. Sentencing Commission	13.1	14.7	14.0	14.7	14.4
<b>Total</b>	<b>5,426.2</b>	<b>5,970.9</b>	<b>5,767.7</b>	<b>5,778.5</b>	<b>5,756.4</b>

**Sources:** U.S. Senate and U.S. House Committees on Appropriations.

**Notes:** House and Senate numbers may differ slightly in some instances. All figures are taken from House budget documents, except for the Senate column. All figures have been rounded.

- a. Amounts enacted for FY2005 reflect a 0.83% across-the-board rescission (P.L.108-447).
- b. Amounts reflect the budget amendments the President transmitted to Congress on June 13, 2005.
- c. Amounts are based on the House Committee on Appropriations budget documents.
- d. Amounts are based on Senate passage of H.R. 3058 on Oct. 20, 2005, and information from the Administrative Office of the U.S. Courts.
- e. Amounts are based on the conference report, as printed in the *Congressional Record*, Nov. 18, 2005.

Title IV covers funding for the Judiciary. As a co-equal branch of government, the Judiciary presents its budget to the President, who transmits the proposed judicial branch budget to Congress unaltered. **Table 7** shows the FY2005 enacted amount, the FY2006 requested funding, the House-passed amount, the Senate-passed amount, and the conference report, as passed.

The two accounts that fund the Supreme Court — the salaries and expenses of the Supreme Court of the United States and the expenditures for the care of its building and grounds — together make up less than 1.2% of the total Judiciary budget. The structural and mechanical care of the Supreme Court building, and care of its grounds, are the responsibility of the Architect of the Capitol. The rest of the Judiciary's budget provides funding for the "lower" federal courts and for related judicial services. The largest account, making up 75% of the total budget — the Salaries and Expenses account for the U.S. Courts of Appeals, District Courts and Other Judicial Services — covers the salaries, benefits and operating expenses of circuit and district judges (including judges of the territorial courts of the United States), and those of retired justices and judges, U.S. Court of Federal Claims, bankruptcy and magistrate judges, and all other officers and employees of the federal Judiciary not specifically provided for by other accounts. The Judiciary budget does not fund three "special courts" in the U.S. court system: the U.S. Court of Appeals for the Armed Forces, the U.S. Tax Court, and the U.S. Court of Appeals for Veterans Claims. Construction of federal courthouses also is not funded within the Judiciary's budget.

In his 2004 year-end annual report, released on January 1, 2005, then-Chief Justice William H. Rehnquist stated that the Judiciary was facing a "funding crisis." He expressed concern about rising fixed costs to the Judiciary that have resulted in hiring freezes, furloughs, and reductions in force while the workload continues to increase. The Judicial Conference, the principal policy-making body for the federal court system, has devised a cost containment strategy and has implemented measures to reduce costs and to make operations more efficient. To alleviate budget pressures that could lead to more staff cuts, he suggested that there be a reassessment of the rent (which constitutes about 20% of the total budget) paid to the General Services Administration (GSA). In January 2005, the Judiciary asked GSA for a partial rent exemption for the federal courts.

Court security has become an increasingly critical issue since the bombing of a federal building in Oklahoma City, the September 11 terrorist attacks, and threats of anthrax contamination. The February 28, 2005, murders of family members of a U.S. District Court judge in Chicago and, on March 11, 2005, of a state judge, a court reporter, and a sheriff's deputy in an Atlanta courthouse elevated federal judiciary security to an even higher priority. Congress held hearings and introduced legislation on security protection for the federal judiciary.

On April 21, 2005, Representative Louie Gohmert introduced H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005, legislation which would do the following:

- Prohibit possession of dangerous weapons in federal courthouses, and increase penalties for assaulting, kidnapping or murdering judges or their families.
- Impose fines and imprisonment for filing false liens against the property of a federal judge, federal attorney, or public safety officer and the posting of restricted personal information about judges, jurors or witnesses on the Internet.
- Authorize a new federal grant program for \$20 million annually (from fiscal years 2006 to 2010) to fund witness protection by states, local governments and American Indian tribes.

On April 26, 2005, the House Judiciary Committee's Subcommittee on Crime, Terrorism, and Homeland Security held a hearing on H.R. 1751. The Subcommittee held a mark-up and forwarded the bill to the full Committee on June 30, 2005. On October 27, 2005, the House Judiciary Committee voted 26 to 5 to approve H.R. 1751, including several amendments. Representative Steve Chabot's amendment would authorize appellate and district judges to allow photographing, broadcasting, or televising court proceedings. Representative Sheila Jackson-Lee sponsored two amendments: one would authorize \$3 million dollars annually (from fiscal 2006 through 2008) for grants to state and local prosecutors, and to develop protective service programs for young witnesses and their families; and another would create a grant program for the establishment of a threat assessment database for the purposes of analyzing trends of domestic terrorism and crime. Representative Adam Schiff also sponsored two amendments: one would authorize \$20 million annually (from 2006 through 2010) for the U.S. Marshals Service to hire entry and senior level deputy marshals for the Judiciary; and another would authorize an additional \$20 million annually (also from 2006 through 2010) to implement courtroom safety and security planning for the same period of time. Representative Robert C. Scott's amendment would strike *habeas corpus* provisions from the bill. All of these amendments were adopted. On November 9, the House passed H.R. 1751 with several amendments, including the following:

- Representative James Sensenbrenner's Manager's amendment to clarify text in the House report that the death penalty shall apply only where death results and covers only those offenders who qualify as principals in the killing; to make tribal courts eligible for court security grants; and to correct drafting of coordination requirement between U.S. Marshals and Administrative Office of the U.S. Courts on security measures.
- Representative Steve King's amendment to authorize any federal judge, magistrate, U.S. Attorney, or any other officer of the Department of Justice who represents the U.S. in a court of law to

carry firearms, subject to training and regulation that the Attorney General prescribes.

- Representative Henry Cuellar’s amendment to add a new category for witness protection grants for jurisdictions that share an international border and face a demonstrable threat from cross-border crime.
- Representative Sheila Jackson-Lee’s amendment to require the Attorney General to work, through the Office of Justice Programs, to make grants to the highest state courts in states participating in the threat assessment database.
- Representative Bob Filner’s amendment to provide grants for young witness protection to include support for young witnesses trying to leave criminal gangs or to prevent initial gang recruitment.
- Representative Anthony Weiner’s amendment to make state and local courts eligible for the Bulletproof Vest Partnership Grant program; the Byrne Memorial State and Local Law Enforcement Assistance Discretionary Grant program; the Assistance for Children’s Justice Act grants; and State Justice Statistic program for Statistical Analysis Center

Representative Scott sponsored two amendments, one to replace all mandatory minimum sentences with higher maximum sentences, and another to delete language providing the death penalty for the killing of federally funded public safety officers. However, neither amendment was adopted. On November 10, 2005, H.R. 1751 was referred to the Senate Committee on the Judiciary.

On May 18, 2005, the Senate Committee on the Judiciary held a hearing on “Protecting the Judiciary at Home and in the Courthouse.” The committee heard testimony on security challenges, and recommendations from a judge whose family members were killed, the Chair of the Committee on Security and Facilities of the Judicial Conference of the United States, the Director of the U.S. Marshals Service, a U.S. Marshal, and a Chief U.S. Magistrate Judge. Subsequently, on July 29, 2005, Senator Jon Kyl introduced the Law Enforcement Officers’ Protection Act of 2005 (S. 1605), calling for mandatory punishment for criminals who murder or assault police officers, firefighters, judges, court employees, ambulance-crew members, and other public-safety officers in the course of their duties. On November 7, Senator Arlen Specter introduced the Courtroom Security Improvement Act of 2005 (S. 1968), which has components similar to those in H.R. 1751. Both Senate bills, which have been referred to the Committee on the Judiciary, seek to provide greater protection for judges, prosecutors, witnesses, victims and their family members, and to institute penalties for crimes committed against them.

On March 2, 2005, the Judiciary submitted an FY2005 emergency supplemental appropriations request for \$101.8 million for the Court of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses Account, to fund costs associated with anticipated workload resulting from recent Supreme Court rulings on sentencing

guidelines and class action suits. The Senate provided \$65 million in its version of the FY2005 supplemental (H.R. 1268/P.L. 109-13), but the conference agreement (H.Rept. 109-72) did not include any funding for the Judiciary.<sup>19</sup>

**FY2006 Request.** For FY2006, the Judiciary initially requested \$5.95 billion in total appropriations, a 9.7% increase over the \$5.43 billion approved for FY2005. Of the total increase of \$526.5 million, \$408.3 million (78%) would be for mandatory pay adjustments, inflation and other adjustments to the base required to maintain current services. The remaining \$118.2 million (22%) would be for workload increases and program enhancements. In requesting an additional 1,211 full-time equivalent staff positions (FTEs) to the 32,902 FTEs funded for FY2005, the Judiciary seeks to continue restoring staff positions that were cut in FY2004 due to insufficient funding and to cope with the increased workload. Current staff levels are below FY2001 levels. During the period 2001 to 2005 there has been a 9% increase in released felons who are supervised by federal probation officers and a 12% increase in criminal cases. Staff reductions have affected 87 of the 94 judicial districts nationwide.

On June 13, 2005, the President transmitted to Congress two budget amendments for the Judiciary. The first amendment requested \$17.8 million to fund 28 new temporary bankruptcy judgeships, including the salaries and benefits of the judges, their support staff, and data collection and tax return provisions (for the Court of Appeals, District Courts and Other Judicial Services account). The additional funds were requested in accordance with the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (P.L. 109-8). The act was signed into law on April 20, 2005, after the FY2006 budget request had already been submitted. The second amendment requested \$690,000 for the Court Security account to provide for one additional court security officer position in Delaware (required based on four new bankruptcy judgeships, and security equipment associated with P.L. 109-8). Together, these two amendments total nearly \$18.5 million. The budget amendment request increased the total FY2006 request to \$5.97 billion.<sup>20</sup>

**House Committee Markup.** On June 21, 2005, the House Appropriations Committee marked up the FY2006 appropriations bill for the Judiciary. The bill would provide \$5.8 billion for the federal judiciary, \$341 million (6%) more than the FY2005 level, and \$203 million below the amended FY2006 request. The amount would “fully fund the court’s revised request for security improvements at federal judicial facilities, and enable the courts to effectively process priority criminal, civil and bankruptcy cases.”<sup>21</sup> The committee adopted, without objection, Representative Todd Tiahrt’s amendment directing the U.S. Marshals Service to provide for the security for homes of federal judges as well as managing judicial facility security. The House Committee also expressed its expectation that the Judiciary, as it has in

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<sup>19</sup> Senate Committee on Appropriations, “Senate and House Conferees Agree to FY2005 Supplemental,” Press Release, May 3, 2005.

<sup>20</sup> The amounts of the budget amendments are reflected in **Table 7**.

<sup>21</sup> House Committee on Appropriations, “Full Committee Reports FY06 Transportation, Treasury, Housing, and Urban Development Bill,” Press Release, June 21, 2005.



previous years, will submit a financial plan within 45 days of the enactment of the FY2006 appropriations Act. The plan would provide information on available funds including appropriations, fee collections, and carry-over balances, and would set the baseline for determining if reprogramming notification is required.

**House Action.** On June 30, 2005, the House passed appropriations for the Judiciary at the same level of funding as proposed by the House Committee. The legislation also includes “the court’s revised request for security improvements at federal judicial facilities, and enable the courts to effectively process priority criminal, civil and bankruptcy cases.”<sup>22</sup>

**Senate Committee Markup.** On July 21, 2005, the Senate Committee on Appropriations marked up the FY2006 appropriations bill for the Judiciary, following the Subcommittee markup two days earlier on July 19, 2005. The Senate Committee recommendation for FY2006 was \$5,778.5 million, or \$10.8 million more than the House-passed amount, \$5,767.7 million.

The Senate committee report (S.Rept. 109-109) stated the Committee’s concern about the rent increases and support for the Judiciary efforts to work with the GSA to reduce costs. The Committee also urged the Judicial Conference to consider the size of future construction projects as well as courtroom sharing as ways to reduce space needs. The Committee directed the Administrative Office to report to the committee (no more than 120 days after enactment of the bill) on the financial savings that could be realized through courtroom sharing. The Committee also directed the Administrative Office to report to the committee (no later than June 1, 2006) on actual increases in workload that have resulted from recent Supreme Court decisions to help the Committee better understand the workload impact of the decisions. With regard to court security, the Committee expressed its concern about the safety of “all Judicial employees and urges the Administrative Office to continue to work closely with the United States Marshals Service to forge an effective and lasting accommodation to achieve this common goal.” The Committee also allocated \$1 million to the Administrative Office to contract with the National Academy of Public Administration to review resource and management issues (including rent costs, court caseloads and other issues that have resulted in budget shortfalls and subsequently resulted in the Judiciary seeking supplemental appropriations).

**Senate Action.** On October 19, 2005, the Senate adopted Senator Christopher Bond’s amendment (SA2109), to provide the Judiciary with essentially the same procurement authorities as authorized for the executive branch. The amendment’s intent is to give the judicial branch greater parity, flexibility, and potential cost savings. On October 20, 2005, the Senate approved appropriations for the Judiciary at the same level of funding as proposed by the Senate Committee.

**Conference Action.** The conference agreement provided a 6% increase in FY2006 funding for the Judiciary at \$5.76 billion — \$330.2 million above FY2005

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<sup>22</sup> House Committee on Appropriations, “House Passes FY06 Transportation, Treasury, Housing and Urban Development Bill,” Press Release, June 30, 1005.

funding but \$214.5 million below the FY2006 request. The total FY2006 funding is \$11.3 million below the House amount, and \$22.1 million below the Senate amount.

Following are highlights of the FY2006 Judiciary budget:

**Supreme Court.** For FY2006, the total request for the Supreme Court (salaries and expenses plus buildings and grounds) is \$66.3 million, a 1.3% decrease over the previous year. The request was for two accounts: (1) Salaries and Expenses — \$60.7 million requested, compared with the FY2005 enacted amount of \$57.4 million, and (2) Care of the Building and Grounds — \$5.6 million requested, compared with \$9.8 million enacted for FY2005. Most of the requested increase in salaries and expenses was to fund mandatory increases in salary and benefit costs and inflationary fixed costs. An additional 12 FTEs are requested for new protection and emergency procedures to enhance the Court's overall security. The buildings and grounds account decreased because the previous year's funding provided for non-recurring projects for exterior building improvements and restoration work, and building security upgrades. The House and the Senate passed the same amount as the FY2006 budget request for both accounts, and the conference reflects the same funding.

**U.S. Court of Appeals for the Federal Circuit.** The FY2006 request is \$26.5 million, a 23% increase over the \$21.5 million for FY2005. In addition to providing for pay and other inflationary adjustments, the requested increases support the court's efforts to improve security, including new perimeter security barriers and enhanced information technology systems. The House passed \$24.6 million for FY2006 — an increase of \$3.1 million above the FY2005 funding level, but less than the amount requested. The Senate approved \$23.5 million, or \$1.1 million less than the House amount.

The conference agreement provided \$24.0 million — \$0.6 million less than the House amount, and \$0.5 million more than the Senate amount.

**Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses.** This account, making up almost 75% of the Judiciary budget, funds most of the day-to-day activities and operations of the federal courts. The FY2006 request totals \$4,478.7 million, an increase of 8.1%, over the FY2005 level of just over \$4,125.3 million. The House passed \$4,348.8 million — an increase of \$223.5 million above the FY2005 funding level. The Senate approved \$4,375 million — \$26.2 million above the House amount.

The conference agreement provided \$4,348.8 million — the amount proposed by the House. The conferees stated that there was substantial carry-over funding from the previous fiscal year that would be available to supplement FY2006 appropriations. The conferees encourage the Judiciary to make available (within the funding provided) \$1.3 million for the Edwin L. Nelson Local Initiatives Program, with \$1 million reserved for local court grants. In addition, \$672,000 was provided for Electronic Probation Pretrial Services under the Judiciary Information Technology Fund. The conferees also directed the Administrative Office of the U.S. Courts to report on all new trends in caseload changes, including those resulting from

increased law enforcement activities along the borders, recently enacted bankruptcy reform legislation, and the Supreme Court decisions concerning sentencing guidelines. In addition, the conferees encouraged the Administrative Office to take into consideration the district courts with heavy caseloads along the international border as the formula for distribution of FY2006 funds is developed.

**Court Security.** This account provides funds for the court security officers and for Federal Protective Service (FPS) security charges for FY2006. For FY2005, Congress approved a transfer of funding from the Salaries and Expenses and the Defender Services accounts to the Court Security account for FPS security charges. The FY2006 revised request was \$390.3 million, an increase of almost 20% over the \$327.6 million enacted for FY2005. The increase was mainly due to the Federal Protective Service charges, court security officer hourly wage adjustments, and security systems and equipment costs. The House-passed amount was \$379.5 million — an increase of \$51.9 million above the FY2005 funding level. The Senate approved \$372.4 million, about \$7 million less than the House amount.

The conference agreement provided \$372 million — \$7.5 million below the House amount, and \$426,000 below the Senate amount. Under the conference agreement, payments to the Federal Protective Service (FPS) will be limited to not more than \$65.5 million, reflecting the conferees' concern that the "FPS has yet to produce a full accounting of charges to the Judiciary," and that "security decisions made in the field without consultation with the Administrative Office have placed in jeopardy other important court activities." The conferees also directed the Administrative Office to work with the U.S. Marshals Service to resolve an impasse over which entity would administer maintenance of the \$11.9 million for security systems provided in P.L. 109-13, the FY2005 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and the Tsunami Relief.

**Defender Services.** This account funds the operations of the federal public defender and community defender organizations, and the compensation, reimbursement, and expenses of private practice "panel attorneys" appointed by the courts to serve as defense counsel to indigent individuals accused of federal crimes. The FY2006 request was \$768.1 million, an increase of 15.1% over the \$667.4 million appropriated for FY2005. The increase was to provide for pay and inflationary costs and to fund potential workload increase arising from recent Supreme Court rulings. The House passed \$721.9 million — an increase of \$54.6 million above the FY2005 funding level. The Senate approved \$710.8 million, or \$11.1 million less than the House amount.

The conference agreement provided \$717 million — \$4.9 million below the House amount, and \$6.2 million above the Senate amount. Although the conference deleted language denying cost-of-living adjustments to panel attorneys (as the Senate proposed) the issue will be revisited in FY2007.

**Administrative Provisions.** A number of administrative provisions for the Judiciary were contained in the conference agreement, including the following:

- A Senate provision requiring a financial plan to serve as an equivalent of operating plans required of other entities receiving funding under this act.
- A Senate provision providing cost of living adjustment to justices and judges.
- Senate language providing certain procurement authorities to the judicial branch that are currently available to the legislative and executive branches, and directing the Administrative Office to provide a report to the Committee on Appropriations detailing the two-year history of use of the authorities on or before May 21, 2008.

**Supplemental Request.** As a result of Hurricane Katrina, the Judiciary has requested \$65.5 million in emergency supplemental funding to cover costs associated with the disruption of federal court operations in Louisiana, Mississippi, and Texas, including the relocation of over 400 judges and court staff. Emergency measures could remain in place for six months or longer. On September 16, 2005, the Judicial Conference urged the President to transmit the supplemental request to Congress. The supplemental request was attached to the Department of Defense appropriations bill (P.L. 109-148); Congress provided \$18 million.

**Across-the-Board Cut Exemption Request.** On November 4, 2005, Chief Justice John Roberts wrote to both the President and the congressional leadership to request that the Judiciary be exempt from any across-the-board reductions for FY2006. He asserted that a 2% across-the-board cut applied to the Judiciary would result in approximately 1,000 staff reductions, and “harm the ability of the courts to fulfill their mission.” On the same day, the Judicial Conference approved a resolution urging the Congress and the President to exempt the Judiciary from any FY2006 across-the-board cut, and to provide funding at least at the level requested in the Judiciary’s request. The Judicial Conference expressed concern that an across-the-board cut would “severely jeopardize the performance of our constitutional duties.” (This request follows the Judiciary’s appeal to the House and Senate conferees requesting a total of \$5.801 billion in order for the Judiciary to carry out its duties.)<sup>23</sup> The FY2006 Defense appropriations bill (P.L. 109-148) included a one percent across-the-board rescission of all FY2006 non-emergency federal discretionary funding; the Judiciary was not exempted.

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<sup>23</sup> The Third Branch, *Judiciary Seeks to Avert Cuts*, Nov. 2005, vol. 37, no. 11.

## Title V: Executive Office of the President and Funds Appropriated to the President

### Executive Office of the President Budget and Key Policy Issues

**Table 9. Title V: Executive Office of the President (EOP) and  
Funds Appropriated to the President Appropriations,  
FY2005 to FY2006**  
(millions of dollars)

Office	FY2005 Enacted*	FY2006 Request	FY2006 House Passed	FY2006 Senate Passed	FY2006 Enacted
Compensation of the President	\$0.5	\$0.5	\$0.5	\$0.5	\$0.5
The White House Office (salaries and expenses)	62.0	53.0	53.8	56.6	53.8
Executive Residence, White House (operating expenses)	12.7	12.4	12.4	12.4	12.4
White House Repair and Restoration	1.9	1.7	1.7	1.7	1.7
Council of Economic Advisors	4.0	4.0	4.0	4.0	4.0
Office of Policy Development	2.3	3.5	3.5	0	3.5
National Security Council	8.9	8.7	8.7	8.7	8.7
Office of Administration	91.5	98.6	89.3	98.6	89.3
Office of Management and Budget	67.9	68.4	67.9	68.4	76.9
Office of National Drug Control Policy (salaries and expenses)	26.8	24.2	26.9	24.2	26.9
Office of National Drug Control Policy Counterdrug Technology Assessment Center	41.7	30.0	30.0	30.0	30.0
Federal Drug Control Programs: High Intensity Drug Trafficking Areas Program	226.5	—	236.0	227.0	227.0
Federal Drug Control Programs: Other Programs	212.0	213.3	238.3	191.4	194.9
Office of the Vice President (salaries and expenses)	4.5	4.5	4.5	4.5	4.5
Official Residence of the Vice President (operating expenses)	0.3	0.3	0.3	0.3	0.3
<b>Total, EOP and Funds Appropriated to the President</b>	<b>833.9</b>	<b>525.0</b>	<b>787.9</b>	<b>730.8</b>	<b>735.5</b>

**Source:** Figures are from the President's budget request and a budget authority table provided by the House Committee on Appropriations, except Senate figures are from a budget table in S.Rept. 109-109. Because of differing treatment of offsets, the totals will not always match the Administration's totals. The figures within this table may differ slightly from those in the text due to supplemental appropriations, rescissions, and other funding actions. Columns may not add due to rounding or exclusion of smaller program line-items.

\* FY2005 figures reflect an across-the-board rescission of 0.83%.

All but three offices in the Executive Office of the President (EOP) are funded in the same appropriations act entitled the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies.<sup>24</sup>

For the fifth consecutive fiscal year, the President's FY2006 budget proposed to consolidate and financially realign several salaries and expenses accounts that directly support the President into a single annual appropriation, called "The White House." This consolidated appropriation would total \$183.3 million in FY2006 for the accounts proposed to be consolidated, an increase of 0.05% from the \$183.2 million appropriated in FY2005 (after the 0.83% rescission).<sup>25</sup> The nine accounts included in the consolidated appropriation would be the following:

- Compensation of the President,
- White House Office (including the Homeland Security Council),
- Executive Residence at the White House,
- White House Repair and Restoration,
- Office of Policy Development,
- Office of Administration,
- Council of Economic Advisers,
- Privacy and Civil Liberties Oversight Board (authorized by P.L. 108-458), and
- National Security Council.<sup>26</sup>

The EOP budget submission stated that consolidation would permit "the President to immediately realign or reallocate the resources and staff available in response to changing needs and priorities or emergent national needs."<sup>27</sup> The conference committees on the FY2002 through FY2005 appropriations act decided to continue with separate appropriations for the EOP accounts to facilitate congressional oversight of their funding and operation.

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<sup>24</sup> Of the three exceptions, the Council on Environmental Quality and Office of Environmental Quality are funded in the House Interior, Environment, and Related Agencies Act and the Senate Interior and Related Agencies Act. The Office of Science and Technology Policy and the Office of the United States Trade Representative are funded under the same appropriations act entitled Science, State, Justice, and Commerce, and Related Agencies (House) and Commerce, Justice, and Science (Senate).

<sup>25</sup> P.L. 108-447, the Consolidated Appropriations Act for FY2005, at Division J, Title I, Section 122, required a 0.83% across-the-board rescission in non-defense discretionary spending accounts. The FY2005 appropriation for the EOP accounts proposed to be consolidated totaled \$187.126 million before the rescission.

<sup>26</sup> U.S. Executive Office of the President, Office of Management and Budget, *Budget of the United States Government Fiscal Year 2006, Appendix* (Washington: GPO, 2005), p. 980. (Hereafter referred to as FY2006 Budget, Appendix.)

<sup>27</sup> U.S. Executive Office of the President, *Fiscal Year 2006 Congressional Budget Submission* (Washington: GPO [Feb. 2005]), p. 12. (Hereafter cited as EOP Budget Submission.)

The FY2006 budget, for the third consecutive year, proposed a general provision in Title VI that would provide authority for the EOP to transfer 10% of the appropriated funds among the following accounts:

- The White House,<sup>28</sup>
- Office of Management and Budget (OMB),
- Office of National Drug Control Policy (ONDCP),
- Special Assistance to the President and the Official Residence of the Vice President (transfers would be subject to the approval of the Vice President),
- Council on Environmental Quality and Office of Environmental Quality,
- Office of Science and Technology Policy,
- Office of the United States Trade Representative.<sup>29</sup>

According to the EOP budget submission, the transfer authority would “allow the President to address, in a limited way, emerging priorities and shifting demands” and would “provide the President with flexibility, improve the efficiency of the EOP, and reduce administrative burdens.”<sup>30</sup> The Consolidated Appropriations Act for FY2005 (Section 533, Title V, Division H) authorized transfers of up to 10% of FY2005 appropriated funds among the accounts for the White House Office, OMB, ONDCP, and the Special Assistance to the President and Official Residence of the Vice President.

For FY2006, the House Committee on Appropriations recommended and the House agreed that separate appropriations for the EOP accounts be continued. The Senate Committee on Appropriations recommended and the Senate agreed to the same, with one exception, proposing to merge the Office of Policy Development and its funding into the White House Office. The conference committee followed the House provision. Section 940 of the House-passed bill and Section 716 of the Senate bill as passed continue the authorized transfers of up to 10% among the accounts for the White House, Special Assistance to the President and Official Residence of the Vice President, Council on Environmental Quality and Office of Environmental Quality, Office of Science and Technology Policy, and Office of the United States Trade Representative. Section 725 of the conference report authorizes transfers of up to 10% among the accounts for the White House and the Special Assistance to the President and Official Residence of the Vice President. The OMB Director (or such other officer as the President may designate in writing) is authorized to make such transfers 15 days after notifying the House and Senate Committees on Appropriations. The transferred funds are to be merged with and available for the same time and purposes as the appropriation receiving the funds. Such transfers cannot increase an appropriation by more than 50%. The Vice President must

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<sup>28</sup> The accounts under the White House are Compensation of the President, White House Office (including the Homeland Security Council), Executive Residence at the White House, White House Repair and Restoration, Council of Economic Advisers, Office of Policy Development, National Security Council, Office of Administration.

<sup>29</sup> FY2006 Budget, Appendix, p. 13.

<sup>30</sup> EOP Budget Submission, p. 13.

approve transfers from the accounts for the Special Assistance to the President and Official Residence of the Vice President.

Notable among the House Committee's funding recommendations for the EOP accounts are the following. Under the White House Office, \$750,000 is included for the Privacy and Civil Liberties Oversight Board and the funding for the White House Communications Agency is transferred to DOD's Defense Information Agency (DIA). For OMB, the committee increases the funding and full-time equivalents and directs that the increases be applied in the areas of Defense, Homeland Security, Natural Resources, and Human Resources "to emphasize that the principal responsibility for which funds are being provided is the development and the execution of the Federal budget." With regard to the Performance Assessment Rating Tool (PART), OMB is required to:

include a detailed description of each program or activity or project that OMB intends to subject to its [PART] study process for the 2007 and 2008 budgets ... [including] the specific methodology that will be used to conduct each study, the data that will be used in the analysis for each program studied, and office responsible for providing OMB with information and analysis.

Under the Counterdrug Technology Assessment Center account, the committee instructs ONDCP to submit, with its FY2007 budget request, "an analysis of options and recommendations for the future course of counter drug technology research." The committee recommends that the High Intensity Drug Trafficking Areas Program (HIDTAP) continue to be funded under the EOP (rather than under the Department of Justice, as requested in the FY2006 budget) and fully funds the account (rather than reducing it by 50%, as the FY2006 budget requested).

The House-passed bill includes several changes from the reported version. An amendment offered and then modified by Representative Carolyn Maloney which was agreed to by voice vote would provide funding of \$1.5 million (an additional \$750,000) for the Privacy and Civil Liberties Oversight Board. Under an amendment offered by Representative Darlene Hooley and agreed to by the House on a 315-103 vote (Roll No. 343), funding for OMB is reduced by \$9 million and for the HIDTAP is increased by \$9 million. An amendment offered by Representative Mark Souder and agreed to by the House on a 268-151 vote (Roll No. 344) provides funding of \$238.3 million dollars for other federal drug control programs and \$145 million for the national media campaign, an account under the programs. Both amounts represent increases of \$25 million over the House committee recommendations.

OMB's statement of administration policy on the House version of the legislation addresses several provisions under the EOP. It urges the transfer of the HIDTAP to the Department of Justice and reduced funding of the program, the consolidation of the White House Accounts and continuation of the Enterprise Services initiative to OMB and ONDCP, and funding of the Privacy and Civil Liberties Oversight Board at the level requested in the budget and modeling of the board after the President's Foreign Intelligence Advisory Board.<sup>31</sup> The views on the

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<sup>31</sup> U.S. Executive Office of the President, Office of Management and Budget, *Statement of* (continued...)



transfer of HIDTAP and the consolidation of the White House Accounts are reiterated in OMB's statement of administration policy on the Senate version of the legislation.<sup>32</sup>

The Senate Committee on Appropriations marked up H.R. 3058 on July 21, 2005. The Committee recommended \$730.8 million, \$33 million less than FY2005 (excluding FY2005 emergency funding for disaster relief) and \$48 million less than the House-passed amount. The difference from FY2005 and the House's FY2006 figure is largely in a reduction for drug control programs other than the HIDTAP. Among the Committee's funding recommendations for the EOP accounts are these: the Office of Policy Development and its funds are merged into the White House Office account, OMB is funded at the level requested by the President, and, like the House bill, the HIDTAP's funding is increased and remains within the EOP's appropriation.

The Senate passed its version of H.R. 3058 on October 20, 2005. The Senate supported the Senate Appropriations Committee recommendations.

The conference agreement funds the White House Office, the Office of Administration, and the ONDCP at the levels passed by the House. The appropriation for the Privacy and Civil Liberties Oversight Board (under the White House Office Account) is \$1.5 million dollars. As in the House-passed bill, a separate appropriation is provided for the Office of Policy Development. OMB is funded at a higher level than either the House-passed or Senate-passed bills provided. The HIDTAP is funded at the Senate-passed level. The Other Federal Drug Control Programs account is appropriated an amount less than that passed by the House, but more than the Senate-passed funding. Among the programs funded in this account, a national media campaign is funded at \$100 million dollars and the National Drug Court Institute and the National Alliance for Model State Drug Laws are each funded at \$1 million dollars.

## Title VI: Independent Agencies

### Independent Agencies Budget and Key Policy Issues

In addition to funding for the aforementioned Departments and agencies, a collection of 21 independent agencies receive funding through this appropriations bill. **Table 10** lists appropriations for FY2005 as enacted, and for FY2006 as

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<sup>31</sup> (...continued)

*Administration Policy, H.R. 3058 — Transportation, Treasury, Housing and Urban Development, the Judiciary, and the District of Columbia Appropriations Bill, FY2006*, June 29, 2005, pp. 3-5. (Hereafter cited as Statement of Administration Policy on H.R. 3058 (House).)

<sup>32</sup> U.S. Executive Office of the President, Office of Management and Budget, *Statement of Administration Policy, H.R. 3058 — Transportation, Treasury, Judiciary, HUD, and Related Agencies Appropriations Bill, FY2006*, Oct. 19, 2005, p. 3. (Hereafter cited as Statement of Administration Policy on H.R. 3058 (Senate).)

requested in the President's Budget and passed in the House and the Senate, for each agency.

**Table 10. Title VI: Independent Agencies Appropriations,  
FY2005 to FY2006**  
(in millions of dollars)

Agency	FY2005 Enacted*	FY2006 Request	FY2006 House	FY2006 Senate	FY2006 Enacted
Architectural and Transportation Barriers Compliance Board	\$6	\$6	\$6	\$6	\$6
Consumer Product Safety Commission	62	62	62	63	63
Election Assistance Commission+	14	18	16	14	14
Federal Deposit Insurance Corporation: Office of Inspector General (transfer)	30	30	30	31	31
Federal Election Commission	52	55	55	55	55
Federal Labor Relations Authority	25	25	25	25	25
Federal Maritime Commission	19	20	20	20	20
General Services Administration	216	219	199	219	217
Merit Systems Protection Board	37	37	38	38	38
Morris K. Udall Foundation	3	1	4	3	4
National Archives and Records Administration	311	315	325	328	329
National Credit Union Administration					
<i>Limitation on direct loans</i>	<i>1,500</i>	<i>1,500</i>	<i>1,500</i>	<i>1,500</i>	<i>1,500</i>
<i>Community Development Revolving Loan Fund</i>	<i>1</i>	<i>1</i>	<i>1</i>	<i>1</i>	<i>1</i>
National Transportation Safety Board	76	77	77	77	77
Neighborhood Reinvestment Corporation	114	118	118	115	118
Office of Government Ethics	11	11	11	11	11
Office of Personnel Management (total)	18,212	18,743	18,742	18,743	18,742
<i>Salaries and Expenses</i>	<i>124</i>	<i>125</i>	<i>120</i>	<i>125</i>	<i>123</i>
<i>Government Payments for Annuity, Employees Health Benefits</i>	<i>8,135</i>	<i>8,393</i>	<i>8,393</i>	<i>8,393</i>	<i>8,393</i>
<i>Government Payments for Annuity, Employee Life Insurance</i>	<i>35</i>	<i>36</i>	<i>36</i>	<i>36</i>	<i>36</i>
<i>Payment to Civil Service Retirement and Disability Fund</i>	<i>9,772</i>	<i>10,072</i>	<i>10,072</i>	<i>10,072</i>	<i>10,072</i>
Office of Special Counsel	15	15	15	15	15
Selective Service System+	26	26	24	26	25
United States Interagency Council on Homelessness	1	2	1	2	2
United States Postal Service	630	149	178	178	178
United States Tax Court	41	49	49	48	48
<b>Total, Independent Agencies</b>	<b>19,756</b>	<b>19,948</b>	<b>19,967</b>	<b>19,986</b>	<b>19,989</b>

**Source:** Conference Report on H.R. 3058, Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006, *Congressional Record*, November 18, 2005, pp. H10935-H10937.

\* FY2005 figures reflect an across-the-board rescission of 0.83%.

+ Selective Service System is included in House bill; in Senate, this agency is in the Military Construction and Veterans Affairs appropriations bill.

The Department of Homeland Security (DHS) and the Department of Defense (DOD) are in the midst of implementing new human resources management systems for their federal civilian employees. A significant issue for the human resources management-related federal agencies during this appropriations cycle has been the impact of the DHS and DOD changes on the labor-management relations and the adverse actions and appeals workloads of the Federal Labor Relations Authority, Merit Systems Protection Board (MSPB), and Office of Special Counsel (OSC) and on the workforce management policies of the Office of Personnel Management (OPM).

**Merit Systems Protection Board.** Both the House and Senate Committee on Appropriations reports state that the increased funding recommended (and approved by both houses) for MSPB is to accommodate additional appeals cases resulting from the decisions of DHS and DOD to maintain MSPB as an arbitrator.

**Office of Personnel Management.** Several directives for OPM are included in the House Committee on Appropriations report as follows. OPM is to continue to implement and refine the new DHS and DOD personnel systems before “bringing the system” to other agencies and departments. An FY2006 operating plan, signed by the OPM Director, must be submitted to the House and Senate Appropriations Committees within 60 days and include funding levels for the various offices, centers, programs, and initiatives in the budget justification. OPM is to include “clear, detailed, and concise” information in its budget justification on the funding and measurement of programs. OPM and OMB must submit a report to Congress within 90 days after the act’s enactment on:

how many veterans and disabled veterans are employed in the Federal Government by department and agency, including in the Executive Office of the President, the barriers that exist to hiring veterans and disabled veterans, and ways to increase the number of veterans and disabled veterans employed in the Federal Government to the level employed at the time of the Civil Service Reform Act of 1978.

Notable among the funding recommended by the House Committee on Appropriations is \$680,000 for OPM to partner with the Partnership for Public Service “to identify successful recruitment models across different college campuses” for application to the federal government and a reduction of \$3 million from the Center for Financial Services because the budget request did not support costs related to performance management, program evaluation, and research projects. OMB’s statement of administration policy on the legislation identifies the \$3 million funding reduction and the prohibition on expanding civil service reform to other agencies at this time as among the provisions that “would impede” implementation of the President’s Management Agenda (PMA). The statement cautions that, “if the final

version of the bill were to significantly erode the PMA, the President's senior advisors would recommend he veto the bill."<sup>33</sup>

The Senate Committee on Appropriations directs OPM to continue its work with GAO and GSA in studying the child care needs of federal employees and to reevaluate its efforts to inform and educate agencies on promoting the program which subsidizes child care for lower income employees. Additionally, OPM is directed to carefully consider GAO's recommendations for modernization of the retirement system and continue consultations with GAO on the project. The Committee recommends funding of up to \$10.3 million for e-Government projects, matching the President's request.

The conference report specifies that, of the \$122.5 million appropriation for salaries and expenses, \$6.9 million is for the Enterprise Human Resources Integration project, \$1.4 million is for the Human Resources Line of Business project, \$500,000 is for the E-training project, and \$1.4 million is for the E-payroll project.

**Office of Special Counsel.** Directives for the Office of Special Counsel included in the Senate Committee on Appropriations report are these: (1) that OSC submit its FY2007 budget justification on the first Monday in February, (2) that, concurrent with the budget submission, OSC submit a comprehensive strategy to address capital needs and case processing, and (3) that OSC provide quarterly staffing reports to Congress.

**Federal Election Commission.** The FEC administers federal campaign finance law, including overseeing disclosure requirements, limits on contributions and expenditures, and the presidential election public funding system; the agency retains civil enforcement authority for the law.

The President's fiscal 2006 budget proposed an appropriation of \$54.6 million for the FEC, a 5.5% increase above the fiscal 2005 appropriation of \$51.7 million. The increase reflects adjustments for inflation and salary and benefit increases, but no additional funds or staff for new programs. The House Appropriations Committee recommended and the House voted an appropriation of \$54.7 million, with at least \$4.7 million designated for internal automated data systems and \$5,000 for representational and reception expenses.

The Senate Appropriations Committee recommended and the Senate voted an appropriation of \$54.6 million, the same as in the President's budget. The Senate specified, as did the House, that at least \$4.7 million shall be designated for internal automated data systems and \$5,000 for representational and reception expenses. One provision added in the Senate committee, to allow unlimited transfers of funds between leadership PACs (those established, financed, maintained, or controlled by

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<sup>33</sup> U.S. Executive Office of the President, Office of Management and Budget, *Statement of Administration Policy, H.R. 3058 — Transportation, Treasury, Housing and Urban Development, the Judiciary, and the District of Columbia Appropriations Bill, FY2006*, June 29, 2005, pp. 4-5.

a federal candidate or officeholder) and national party committees, was deleted by voice vote on the Senate floor.

The conference version adopted the House-passed appropriation level of \$54.7 million, with at least \$4.7 million designated for internal automated data systems and \$5,000 for representational and reception expenses.

**General Services Administration (GSA).** The General Services Administration administers federal civilian procurement policies pertaining to the construction and management of federal buildings, disposal of real and personal property, and management of federal property and records. It is also responsible for managing the funding and facilities for former Presidents and presidential transitions. Typically only about 1% of GSA's total budget is funded by direct appropriations.

**Table 11. General Services Administration Appropriations,  
FY2005 to FY2006**  
(in millions of dollars)

Fund/Office	FY2005 Enacted*	FY2006 Request	FY2006 House	FY2006 Senate	FY2006 Enacted
Federal Buildings Fund					
Limitations on Availability of Revenues	\$7,217	\$7,769	\$7,769	\$7,890	\$7,753
Limitations on Obligation: New Construction Projects	709	640	708	829	792
Limitations on Obligation: Repairs and Alterations	980	1,029	961	961	861
Rescission	-\$106				
General Activities Accounts					
Government-wide Policy	62	53	53	53	53
Operating Expenses	91	100	100	100	100
Office of Inspector General	42	43	43	43	43
Allowances and Office Staff for Former Presidents	3	3	3	3	3
Federal Citizen Information Center Fund	15	15	15	15	15
Electronic Gov't (E-Gov) Fund	3	5	3	5	3
<b>GSA direct appropriations total</b>	<b>216</b>	<b>219</b>	<b>217</b>	<b>219</b>	<b>217</b>

**Source:** Conference Report on H.R. 3058, Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006, *Congressional Record*, Nov. 18, 2005, pp. H10935-H10936.

\* FY2005 figures reflect an across-the-board rescission of 0.83%.

As reported and passed in the House, H.R. 3058 provided \$199.4 million in direct appropriations. Of this total, an appropriation of \$52.8 million was provided for government-wide policy and \$82.2 million for operating expenses; \$43.4 million for the Office of Inspector General; \$2.9 million for allowances and office staff for former Presidents; \$3.0 million for the electronic government initiatives; and \$15 million to be deposited into the Federal Citizen Information Center Fund.

As reported and passed in the Senate, H.R. 3058 provided \$219 million in direct appropriations, the same as requested by the President. The Senate and the President recommended \$5 million for the eGov fund compared to \$3 million as approved by the House (see below). Otherwise the Senate version mirrored the levels in the House-passed version.

The committee of conference appropriated \$217 million in direct appropriations. Of this total, an appropriation of \$52.8 million was provided for government-wide policy and \$99.9 million for operating expenses; \$43.4 million for the Office of Inspector General; \$2.9 million for allowances and office staff for former Presidents; \$3 million for the electronic government initiatives; and \$15 million to be deposited into the Federal Citizen Information Center Fund.<sup>34</sup>

**Federal Buildings Fund (FBF).** Most GSA spending is financed through the Federal Buildings Fund (FBF). Rent assessments from agencies paid into the FBF provide the principal source of its funding. Congress may also provide direct funding into the FBF, as occurred in FY2004, with an appropriation of \$443 million. Congress directs the GSA as to the allocation or limitation on spending of funds from the FBF in provisions found accompanying GSA's annual appropriations.

As approved by the House, \$630.8 million shall remain available until expended for new construction projects from the FBF, which totals \$7.8 billion. For repairs and alterations, \$393 million shall remain available until expended. This amount includes \$15.7 million to implement a glass fragmentation program; \$10.0 million to implement a chlorofluorocarbons program; and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. § 3056.

As passed by the Senate, H.R. 3058 recommends a limitation of \$829.1 million for the FBF (an increase of \$121.0 million above House enacted amount) for the construction of new federal facilities, and \$961.4 million for repairs and alterations (same as House enacted amount). The Senate Committee also noted that it strongly supports the purpose and structure of the FBF, and believes that GSA rent policies are "appropriate and necessary." Any reduction in rent for federal courthouses will "inhibit the ability" of GSA to address comprehensive building needs of the federal government. The Senate Committee also directed the GSA Office of the Chief

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<sup>34</sup> In the FY2006 Defense appropriations bill (P.L. 109-148), Congress provided a supplemental appropriation of \$38 million to GSA's federal buildings fund to respond to the consequences of Hurricanes Katrina, Rita, and Wilma.

Architect to use \$5.0 million to continue to work with the private sector to enhance existing risk methodology designed to support structural upgrades and hazard mitigation in new construction projects and major renovations to existing facilities.

The committee of conference authorized \$792 million to remain available until expended for new construction projects from the FBF, which totals \$7.8 billion. For repairs and alterations, \$861 million shall remain available until expended.

**Electronic Government Fund (E-gov Fund).** Originally unveiled in advance of the President's proposed budget for FY2002, the E-gov Fund and its appropriation has been a somewhat contentious matter between the President and Congress. The President's initial \$20 million request was cut to \$5 million, which was the amount provided for FY2003, as well. Funding thereafter was held at \$3 million for FY2004 and FY2005. Created to support interagency e-gov initiatives approved by the Director of OMB, the fund and the projects it funds have been subject to close scrutiny by, and accountability to, congressional appropriators. The House approved the \$3 million for FY2006 recommended by appropriators; the Senate allocated \$5 million. The final amount prescribed by conferees and accepted by both chambers was \$3 million.

**National Archives and Records Administration (NARA).** The custodian of the historically valuable records of the federal government since its establishment in 1934, NARA also prescribes policy and provides both guidance and management assistance concerning the entire life cycle of federal records. It also administers the presidential libraries system; publishes the laws, regulations, and presidential and other documents; and assists the Information Security Oversight Office (ISOO), which manages federal security classification and declassification policy; and the National Historical Publications and Records Commission (NHPRC), which makes grants nationwide to help nonprofit organizations identify, preserve, and provide access to materials that document American history.

For FY2006, the President had requested \$323 million for NARA, a modest increase over the \$264.8 million appropriated for the agency for FY2005. Of this requested amount, the following distributions were specified: \$280.9 for operating expenses, a modest increase over the \$266.9 appropriated for FY2005; \$36.0 for the electronic records archive; \$6.1 million for repairs and restoration, a significant reduction from the \$13.4 appropriated for this account for FY2005; and no requested funds for the NHPRC, which had received \$5 million in FY2005.

The House approved the \$325 million recommended by the appropriators for NARA, which is approximately \$10 million more than the amount requested for the agency in the President's budget. Of this amount, distributions would be as follows: \$283.9 for operating expenses, with \$2.9 million of these funds designated for the anticipated receipt, and initial operation, of the now privately maintained Nixon presidential library; \$35.9 for the electronic records archive; and almost \$6.2 million for repairs and restoration. For the NHPRC account, \$7.5 million was recommended, \$2 for operations and the remainder for grants. An almost \$8.5 million debt adjustment in committee reduced the \$333.5 million allocation to \$325 million.

The Senate approved \$328 million for NARA, distributed as follows: \$280.9 for operating expenses; \$38.9 for the electronic records archive, with \$3 million of these funds designated for work with the National Oceanographic Office at the National Center for Critical Information Processing and Storage at the Stennis Space Center in Mississippi; and a little over \$11.6 million for repairs and restoration, with \$5.5 million of this amount provided for projects at a new regional archives and records center in Alaska and at the Kennedy and Johnson presidential libraries. For the NHPRC account, \$5 million was allocated. An almost \$8.5 million debt adjustment was also accepted.

Conferees prescribed, and both chambers approved, \$329 million for NARA, distributed as follows: \$283 million for operations, with \$2 million of these funds designated for the anticipated receipt, and initial operation, of the now privately maintained Nixon presidential library; \$37.9 million for the electronic records archive, with \$2 million of these funds designated for work with the National Oceanographic Office at the National Center for Critical Information Processing and Storage at the Stennis Space Center in Mississippi; \$9.6 million for repairs and restoration, with \$3.5 of this amount designated for projects at a new regional archives and records center in Alaska and at the Kennedy and Johnson presidential libraries; and \$7.5 million for the NHPRC, with \$2 million for operations and the remainder for grants. An almost \$8.5 million debt adjustment in committee reduced the \$338 million allocation to \$329.6 million.

**Postal Service.**<sup>35</sup> The U.S. Postal Service (USPS) is self-supporting; it generates nearly all of its funding — about \$69 billion annually — by charging users of the mail for the costs of the services it provides. Congress does provide a regular appropriation, however, to compensate USPS for revenue it forgoes in providing, at congressional direction, free mailing privileges for the blind and for overseas voting. Congress has also provided funds in recent years for bio-terrorism detection in the wake of the anthrax events of 2001.

Under the Revenue Forgone Reform Act of 1993, Congress is authorized to reimburse USPS \$29 million each year until 2035, for services provided below cost to non-profit organizations at congressional direction in the 1990s, but not paid for at the time. For the past 12 years, the Postal Service appropriation has consisted of that amount, plus an estimate of the amount needed to pay for mail for the blind and overseas voters for the current year.

In its FY2006 Budget, the Administration proposed an appropriation of \$87.4 million, including \$58.8 million for revenue forgone in FY2006 and a reconciliation adjustment for underestimated mail volume in FY2002 of \$28.6 million. The Postal Service estimated that the FY2006 amount would be \$79.9 million, or \$21.2 million more than OMB requested, and asked Congress to appropriate that amount. Either amount would be supplemented by a \$28.6 million reconciliation adjustment reflecting that actual use of the subsidy in FY2002 was underestimated by that

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<sup>35</sup> Also see CRS Report RS21025, *The Postal Revenue Forgone Appropriation: Overview and Current Issues*, by Nye Stevens.



amount. The Administration's budget proposed that the \$87.4 million would not be available for obligation until October 1, 2006, which is in FY2007.

The Administration's FY2006 budget also proposed to eliminate the usual \$29 million annual payment for revenue forgone in past years that is set forth in the Revenue Forgone Reform Act. USPS argues that cancelling the payment could result in the whole 29-year obligation, totaling \$870 million, being written off as a bad debt and charged to current postal ratepayers.

In its detailed justification of its FY2006 budget request, USPS asked Congress for an additional \$51 million in emergency response funds to protect the safety of employees and customers from threats such as the 2001 anthrax attack. The Administration's FY2006 Budget does not include any additional funds for emergency preparedness for the Postal Service.

The House bill, as reported by committee and passed by the House, adopted the Administration's recommendation by providing \$87.4 million for the current year's revenue forgone. It departed from the budget, however, in holding only \$73 million of that until FY2007, and in providing the annual \$29 million for revenue forgone in the past. The USPS request for \$51 million to carry out the latter stages of the emergency preparedness plan was not granted.

The Senate also allowed the \$29 million for past revenue forgone even though the Statement of Administration Policy on the bill opposed it. The Senate would have made all of the payments for 2006 not payable until FY2007, but the conference report followed the lead of the House by assigning \$14.3 million of the costs to FY2006.

## **Titles VII and VIII: General Provisions**

The Transportation, Treasury, et al., Appropriations Act customarily includes general provisions which apply either government-wide or to specific agencies or programs. There also may be general provisions at the end of each individual title within the appropriations act which relate only to agencies and accounts within that specific title. The Administration's proposed language for government-wide general provisions is included in the FY2006 Budget, Appendix.<sup>36</sup> Most of the provisions continue language which has appeared under the General Provisions title for several years. For various reasons, Congress has determined that reiterating the language is preferable to making the provisions permanent. Presented below are some of the government-wide general provisions that were proposed for elimination in the FY2006 budget. Inclusion of the provisions in the House-passed and Senate-passed bills and the conference report is noted.

- Section 609, which prohibits payment to political appointees functioning in jobs for which they have been nominated, but not confirmed. Included as Section 909 of the House bill as passed,

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<sup>36</sup> FY2006 Budget, Appendix, pp. 9-14.

Section 807 of the Senate bill as passed, and Section 809 of the conference report.

- Section 619, which prohibits the obligation or expenditure of appropriated funds for employee training when it (1) does not meet identified needs for knowledge, skills, and abilities bearing directly upon the performance of official duties; (2) contains elements likely to induce high levels of emotional response or psychological stress in some participants; (3) does not require prior employee notification of the content and methods to be used in the training and written end-of-course evaluation; (4) contains any methods or content associated with religious or quasi-religious belief systems or “new age” belief systems; or (5) is offensive to, or designed to change, participants’ personal values or lifestyle outside the workplace. Included as Section 919 of the House bill as passed, Section 817 of the Senate bill as passed, and Section 819 of the conference report.
- Section 620, which prohibits the use of appropriated funds to require and execute employee non-disclosure agreements without those agreements having whistle-blower protection clauses. Included as Section 920 of the House bill as passed, Section 818 of the Senate bill as passed, and Section 820 of the conference report.
- Section 623, which requires that the Committees on Appropriations approve the release of any “non-public” information, such as mailing or telephone lists, to any person or any organization outside the federal government. The Administration also requested repeal of this requirement in its FY2003 and FY2005 budget requests. Included as Section 923 of the House bill as passed, Section 821 of the Senate bill as passed, and Section 823 of the conference report.
- Section 628, which prohibits using appropriated funds to contract independently with private companies to provide online employment applications and processing services. The Administration also proposed eliminating this prohibition in its FY2005 budget request. Included as Section 928 of the House bill as reported, but not included in the House bill as passed and not included in the Senate bill as passed.
- Section 635, which states that Congress recognizes the United States Anti-Doping Agency as the official anti-doping agency for Olympic, Pan American, and Paralympic sports in the United States. Included as Section 934 of the House bill as passed, Section 832 of the Senate bill as passed, and Section 834 of the conference report.
- Section 637, which prohibits the purchase of a product or service offered by the Federal Prison Industries, Inc., unless the agency making such purchase determines that such product or service provides the best value. The Administration also proposed repealing this prohibition in its FY2005 budget request. Included as Section

936 of the House bill as passed and not included in the Senate bill as passed or in the conference report.

Among new government-wide general provisions in the FY2006 bill are those on (1) public-private competitions for activities not inherently governmental (Section 941 of House-passed, Section 840 of Senate-passed, and Section 842 of the conference report), (2) requirements for transfers or reimbursements to the E-Government Initiatives (Section 942 of House-passed, and Section 841 of the conference report), and (3) a 3.1% pay adjustment for federal civilian employees, including those in the Departments of Homeland Security and Defense (Section 943 of House-passed, Section 836 of Senate-passed, and Section 843 of the conference report). OMB's statement of administration policy on the House version of the legislation reflects strong opposition to the government-wide pay adjustment provision and states that recruitment or retention problems "are limited to a few areas and occupations."<sup>37</sup> The OMB statement that accompanies the Senate version of the legislation expresses strong opposition to any provision providing a government-wide pay adjustment in excess of the 2.3% recommended by the President in the FY2006 budget.<sup>38</sup>

## **Division B: District of Columbia Appropriations<sup>39</sup>**

**Table 8. Division B: District of Columbia Appropriations,  
FY2005 to FY2006**  
(millions of dollars)

	<b>FY2005*</b>	<b>FY2006 Request</b>	<b>FY2006 House Passed</b>	<b>FY2006 Senate Passed</b>	<b>FY2006 Enacted</b>
Total Federal Payments	\$555.5	\$573.4	\$603.4	\$593	\$603

<sup>37</sup> Statement of Administration Policy on H.R. 3058 (House), p. 4. The statement discusses concerns about several of the general provisions vis a vis the President's constitutional authority at p. 6.

<sup>38</sup> Statement of Administration Policy on H.R. 3058 (Senate), p. 3. The statement discusses concerns about several of the general provisions vis a vis the President's constitutional authority at pp. 6-7.

<sup>39</sup> Prior to the reorganization of House and Senate Committee on Appropriations subcommittee structures at the beginning of the 109<sup>th</sup> Congress, both houses of Congress had a separate Appropriations Subcommittee for the District of Columbia appropriations. Appropriations for the District of Columbia are now included in the responsibilities of the House Committee on Appropriations Subcommittee on Transportation, Treasury, and Housing and Urban Development, The Judiciary, District of Columbia, while in the Senate, there is still a separate Appropriations Subcommittee on the District of Columbia. The Senate added its District of Columbia appropriations bill to its Transportation et al. appropriations bill during floor consideration. The conference bill reflects that structure, with the District of Columbia appropriations in Division B of the bill, while all other agencies are in Division A.

**Source:** Figures are from a budget authority table provided by the House Committee on Appropriations.

\* FY2005 figure reflects an across-the-board rescission of 0.83%.

## District of Columbia Budget and Key Policy Issues

**President's Request.** The Administration's proposed FY2006 budget includes \$573.3 million in federal payments to the District of Columbia. The courts and criminal justice system (court operations, defender services, and offender supervision) represent \$470.1 million, or 82%, of the request.

**District Budget.** On June 2, 2005, the District's city council approved the city's \$8.8 billion operating budget for FY2005, and \$2.7 billion in capital outlays including \$534 million to finance a new baseball stadium. The District's budget also includes a request for \$635 million in special federal payments, which is \$62 million more than the \$573 million proposed by the President and \$32 million more than the amount that was passed by the House.

**House Bill.** The House provided \$603 million for the District, \$30 million more than the Administration request and \$48 million more than enacted for FY2005. The House approved the \$470 million in FY2006 court and criminal justice funding requested by the Administration. The House also provided \$75 million in special federal payments in support of elementary, secondary, and post-secondary education initiatives, as requested by the Administration. This includes \$13.525 million in special federal assistance to improve the city's public schools, \$13.525 million in support of public charter schools, \$14.566 million in assistance in support of scholarships to private and religious schools, and \$33.2 million for the District's college tuition assistance program, \$7 million more than appropriated in FY2005.

The House also provided \$20 million in special federal payments to the District's Chief Financial Officer for various, but unspecified, education, economic development, health and social service activities, and \$10 million in federal payments to the District Water and Sewer Authority.

In addition to recommending \$603 million in special federal payments to the District of Columbia, the bill also contains a number of general provisions, including a number of so-called "social riders." Consistent with provisions included in previous appropriations acts, the bill would prohibit the use of federal and District funds to finance or administer a needle exchange program intended to reduce the spread of AIDS and HIV; or provided abortion services except in instances of rape, incest, or the health of the mother is threatened. The bill would also prohibit the city from decriminalizing the use of marijuana for medical purposes, and limit the city's ability to use District funds to lobby for congressional voting representation or statehood. The House also approved an amendment banning the use of funds to enforce a District law requiring guns in homes to be disassembled or secured by a gun lock.

**Senate Bill.** On July 21, 2005, the Senate Appropriations Committee reported the District of Columbia Appropriations Act for FY2006, S. 1446 (S.Rept. 109-106).

The bill would appropriate \$593 million in special federal payments for the District and would approve the District \$8.8 billion FY2006 operating budget. As reported by the Committee, the bill recommends \$33.2 million for the city's college tuition assistance program. This is the same amount recommended by the House and represents a \$7.8 million increase above the program's FY2005 funding level. The bill also includes \$40 million in special federal payments in support of continued efforts to strengthen public schools and expand elementary and secondary education choices, including funds for public charter schools and private school scholarships. This is \$1.6 million less than recommended by the House. The bill includes \$17.2 million in support of security planning (\$12 million) and bioterrorism preparedness (\$5.2 million for bioterrorism and forensic laboratory). This is \$5 million less than approved by the House. It would continue congressional support (\$3 million — \$2 million less than the House-passed level) for the construction of a nature trail along the Anacostia River. These proposed funding reductions, which total \$8.6 million, would be offset by three new initiatives not included in the House bill: \$3 million for marriage development accounts and life skills training for low income persons; \$2 million for a Latino youth education and health initiative; and \$3 million for a housing initiative for recently released ex-offenders.

**Senate Bill General Provisions.** The Senate bill includes a provision not included in the House bill. It would transfer 15 acres of federal land at Robert F. Kennedy Stadium to the District. Unlike the House bill, the Senate measure would allow local funds to be used for lobbying for District voting representation in Congress and to fund or operate a needle exchange program. Consistent with the provisions included in the House bill, the Senate bill would prohibit the use of District and federal funds to implement the District medical marijuana initiative, or to provide abortion services except in cases of rape or incest, or the mother's life is endangered.

The Senate added the text of S. 1446 to H.R. 3058 and approved the Committee's recommendations.

**Conference Bill.** The conference version of H.R. 3058 was approved by the House on November 18, 2005, and by the Senate on November 21, 2005. It appropriated \$603 million in special federal payments to the District, including \$75 million in special federal payments in support of elementary, secondary, and post-secondary education initiatives.

In addition to appropriating \$603 million in special federal payments to the District of Columbia, H.R. 3058 contained a number of general provisions, including several so-called social riders. Consistent with provisions included in previous appropriations acts, the bill prohibited the use of federal and District funds to finance or administer a needle exchange program intended to reduce the spread of AIDS and HIV; or for abortion services except in an instance of rape or incest, or when the life of the mother is threatened. A provision not included in the final version of the act, but included in a Senate version, would have allowed the use of local, but not federal, funds for a needle exchange program.

The conference bill restricted the use of District and federal funds for abortion services and prohibited the implementation of the city's medical marijuana initiative,

which would decriminalize the use of marijuana for medical purposes. It did not include a House provision that would have prohibited the District from enforcing a section of its gun control laws that requires registered owners of handguns to keep such weapons unloaded, disassembled, or trigger-locked in their homes.

The conference bill included two new initiatives: it provided \$3 million for marriage development accounts for low-income persons, and transferred 15 acres of federal land at Robert F. Kennedy Stadium to the District for construction of a public charter boarding school. Conferees did not include two initiatives present in the Senate version of H.R. 3058: a \$2 million Latino youth education and health initiative and a \$3 million housing initiative for recently released ex-offenders.

## **Cuba Sanctions<sup>40</sup>**

Since 2000, either one or both houses have approved provisions in the annual Treasury Department appropriations bill that would ease U.S. economic sanctions on Cuba (especially on travel and on U.S. agricultural exports) but none of these provisions was enacted. This year, the House-passed and Senate-passed versions of the FY2006 Transportation-Treasury-Housing appropriations bill, H.R. 3058, included identical provisions (Section 945 in the House version and Section 719 in the Senate version) that would have prevented Treasury Department funds from being used to implement a February 2005 amendment to the Cuba embargo regulations that tightened restrictions on “payment of cash in advance” for U.S. agricultural exports to Cuba. The tightened restrictions require that cash payment for the exports is received prior to the shipment of the goods from the port at which they are loaded. The Administration’s Statements of Policy on the bill maintained that the President would veto the bill if it contained this provision. Ultimately the provision was not included in the conference report to the bill (H.Rept. 109-307). Press reports indicated that the White House also rejected, during conference, language that would have denied \$5 million to the Treasury Department’s Office of Foreign Assets Control (OFAC) until the Treasury Department changed the tightened restrictions.<sup>41</sup>

Several House amendments to H.R. 3058 that would have eased Cuba sanctions further failed during June 30, 2005 floor consideration: H.Amdt. 420 (Davis) on family travel, by a vote of 208-211; H.Amdt. 422 (Lee) on educational travel, by a vote of 187-233; and H.Amdt. 424 (Rangel) on the overall embargo, by a vote of 169-250. An additional amendment on religious travel, H.Amdt. 421 (Flake), was withdrawn, and an amendment on family travel by members of the U.S. military, H.Amdt. 419 (Flake), was ruled out of order for constituting legislation in an appropriations bill.

During Senate consideration, S.Amdt. 2133 (Dorgan), proposed on October 19, 2005, would have prohibited funds from being used to enforce restrictions on travel.

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<sup>40</sup> Prepared by Mark P. Sullivan, Specialist in Latin American Affairs, Foreign Affairs, Defense, and Trade Division.

<sup>41</sup> “White House Rejects Compromise on Cuba Trade Provisions,” *Congress Daily AM*, November 15, 2005.

The amendment was withdrawn the following day after a second-degree amendment, S.Amdt. 2158 (Ensign), related to abortion (and unrelated to Cuba) was proposed.

Since the early 1960s, U.S. policy toward Communist Cuba under Fidel Castro has consisted largely of efforts to isolate the island nation through comprehensive economic sanctions, including prohibitions on U.S. financial transactions — the Cuban Assets Control Regulations (CACR) — that are administered by the Treasury Department’s OFAC. Restrictions on travel have been a key and often contentious component of U.S. efforts to isolate the Cuban government. The regulations have not banned travel itself, but have placed restrictions on any financial transactions related to travel to Cuba. In 2004, the Bush Administration significantly tightened restrictions on travel, and there was considerable reaction to the Administration’s tightening of restrictions for family visits and educational travel.

Under U.S. sanctions, commercial agricultural exports to Cuba have been allowed since 2001 under the terms of the Trade Sanctions Reform and Export Enhancement Act of 2000 or TSRA, but with numerous restrictions and licensing requirements. Exporters are denied access to U.S. private commercial financing or credit, and all transactions must be conducted in cash in advance or with financing from third countries.

Earlier this year, the Administration tightened U.S. economic sanctions against Cuba by further restricting how U.S. agricultural exporters may be paid for their sales. On February 22, 2005, OFAC amended the CACR to clarify that the term “payment of cash in advance” for U.S. agricultural sales to Cuba means that the payment is to be received prior to the shipment of the goods. This differs from the practice of being paid before the actual delivery of the goods, a practice that had been utilized by most U.S. agricultural exporters to Cuba since such sales were legalized in late 2001. U.S. agricultural exporters and some Members of Congress strongly objected that the action constituted a new sanction that violated the intent of TSRA, and could jeopardize millions of dollars in U.S. agricultural sales to Cuba. OFAC Director Robert Werner maintains that the clarification “conforms to the common understanding of the term in international trade.”<sup>42</sup> On July 29, 2005, OFAC clarified that, for “payment of cash in advance” for the commercial sale of U.S. agricultural exports to Cuba, vessels can leave U.S. ports as soon as a foreign bank confirms receipt of payment from Cuba. OFAC’s action would reportedly ensure that the goods would not be vulnerable to seizure for unrelated claims while still at the U.S. port. Supporters of overturning OFAC’s February 22, 2005 amendment, such as the American Farm Bureau Federation, were pleased by the clarification but indicated that they would still work to overturn the February rule.<sup>43</sup>

Since late 2001, Cuba has purchased over \$1 billion in agricultural products from the United States. Overall U.S. exports to Cuba amounted to about \$7 million in 2001, \$146 million in 2002, \$259 million in 2003, \$400 million in 2004, and \$245

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<sup>42</sup> U.S. Department of the Treasury, Testimony of Robert Werner, Director, OFAC, before the House Committee on Agriculture, March 16, 2005.

<sup>43</sup> Christopher S. Rugaber, “Treasury Clarifies Cuba Farm Export Rule, and Baucus Relents on Nominees,” *International Trade Reporter*, August 4, 2005.

million in the first eight months of 2005, the majority in agricultural products. U.S. exports to Cuba for January to August 2005 declined about 22% from the same time period in 2004.<sup>44</sup>

For additional information, see CRS Report RL32730, *Cuba: Issues for the 109<sup>th</sup> Congress*, by Mark P. Sullivan; CRS Issue Brief IB10061, *Exempting Food and Agriculture Products from U.S. Economic Sanctions: Status and Implementation*, by Remy Jurenas; and CRS Report RL31139, *Cuba: U.S. Restrictions on Travel and Remittances*, by Mark P. Sullivan.

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<sup>44</sup> Trade Atlas. Department of Commerce Statistics.